No. 16-1435

In the
Supreme Court of the United States

MINNESOTA VOTERS ALLIANCE, et al.,
Petitioners,

v.

JOE MANSKY, et al.,
Respondents.

On Writ of Certiorari
to the United States Court of Appeals
for the Eighth Circuit

JOINT APPENDIX

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Chronological List of Relevant Docket Entries

United States District Court
District of Minnesota
Case No. 0:10-cv-04401-JNE-SER

Dkt.	Date	Description
1	Oct. 28, 2010	Complaint for Declaratory and Injunctive Relief
5	Oct. 29, 2010	Affidavit of Sue Jeffers
6	Oct. 29, 2010	Affidavit of Colin Wilkinson
7	Oct. 29, 2010	Affidavit of Daniel McGrath
12	Oct. 29, 2010	Declaration of Randy Liebo
14	Oct. 29, 2010	Declaration of Dorothy Fleming
16	Oct. 29, 2010	Declaration of Jeff Davis
20	Oct. 29, 2010	Violations of Chapter 211B, Appendix C of Gary Poser Declaration
28	Nov. 1, 2010	Affidavit of Joseph Mansky
42	Nov. 18, 2010	First Amended Complaint for Declaratory and Injunctive Relief
55	Jan. 6, 2011	Memorandum in Support of Motion to Dismiss by Mark Ritchie

57	Jan. 6, 2011	Gary Poser's Email, Exhibit B to Gary Poser Declaration
59	Jan. 6, 2011	Memorandum in Support of Motion to Dismiss by Mike Freeman, Rachel M. Smith
63	Jan. 6, 2011	Memorandum in Support of Motion to Dismiss by Susan Gartner, Joe Mansky
75	Feb. 11, 2011	Response to Motion to Dismiss filed by Andy Cilek, Jeff Davis, Election Integrity Watch, Dorothy Fleming, Susan Jeffers, Dan McGrath, Minnesota Majority, Minnesota Northstar Tea Party Patriots, Minnesota Voters Alliance
77	Feb. 17, 2011	Reply to Response to Motion to Dismiss filed by Mark Ritchie
81	Feb. 17, 2011	Reply regarding Motion to Dismiss, Memorandum in Support of Motion filed by Susan Gaertner, Joe Mansky

82	Feb. 17, 2011	Reply regarding Motion to Dismiss, Memorandum in Support of Motion filed by Mike Freeman, Rachel M. Smith
86	April 29, 2011	Order granting Defendants Motion to Dismiss with Prejudice
128	Oct. 15, 2014	Order: Defendant Mark Ritchie's Motion to Dismiss or for Summary Judgement is Granted in Part and Denied in Part Plaintiffs' Motion for an Order under Fed. R. Civ. P. 56(d) is Denied in Part and Denied as Moot in Part.
137	Dec. 18, 2014	Declaration of Rachel M. Smith
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United States Court of Appeals
for the Eighth Circuit
Case No. 11-2125

Date	Description
Aug. 22, 2011	Appellants' Opening Brief
Sept. 21, 2011	Appellee's Opening Brief filed by Mark Ritchie
Sept. 22, 2011	Appellees' Opening Brief filed by Mike Freeman and Rachel Smith
Sept. 22, 2011	Appellees' Openi g Brief filed by John J. Choi, Susan Gaertner and Joe Mansky
Oct. 25, 2011	Appellants' Reply Brief
Mar. 6, 2013	Opinion Affirming District Court in Part, Reversing in Part, and Remanding in Accordance with Opinion
Mar. 27, 2013	Appellants' Petition for Panel Rehearing and Rehearing En Banc

April 19, 2013	Appellee's Response to Petition for En Banc Rehearing by Mark Ritchie
April 19, 2013	Appellees' Response to Petition for En Banc Rehearing by Mike Freeman and Virginia Gelms
April 22, 2013	Appellees' Response to Petition for en banc rehearing by John Choi and Joe Mansky
May 7, 2013	Order Denying Petition for Panel Rehearing and Rehearing En Banc
May 14, 2013	Mandate Issued
Aug. 14, 2013	Supreme Court Notice of Certiorari filed in the Supreme Court
Dec. 16, 2013	Supreme Court Order Denying Certiorari Petition

Chronological List of Relevant Docket Entries

United States Court of Appeals
for the Eighth Circuit
Case Nos. 15-1682 and 15-1741

Date	Description
June 18, 2015	Appellants' Opening Brief
July 16, 2015	Brief of Appellee/Cross-Appellant filed by Steve Simon
July 20, 2015	Brief of Appellees filed by Mike Freeman and Virginia Gelms
July 20, 2015	Brief of Appellees filed by John Choi and Joe Mansky
Aug. 24, 2015	Appellants'/Cross-Appellees' Reply Brief
Sept. 8, 2015	Reply Brief of Appellee/Cross-Appellant filed by Steve Simon
Feb. 28, 2017	Opinion Affirming the District Court and Dismissing the Cross Appeal as Moot
Mar. 21, 2017	Mandate Issued

June 2, 2017	United States Supreme Court Notice of Certiorari filed in the Supreme Court

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Minnesota Majority, Minnesota Voters Alliance, Minnesota Northstar Tea Party Patriots, Election Integrity Watch, Susan Jeffers, individually and as an election judge, Dorothy Fleming, Jeff Davis, Dan McGrath, Eugene F. Delaune II, and Randy Liebo,

Plaintiffs,

vs.

Joe Mansky in his official capacity as the Elections Manager for Ramsey County, Rachel M. Smith in her official capacity as the Elections Manager for Hennepin County, Mike Freeman in his official capacity as Hennepin County Attorney, Susan Gaertner in her Official Capacity as Ramsey County Attorney, and Mark Richie in his official capacity as Secretary of State,

Defendants.

Court File No. _____

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

FILED Oct. 28, 2010

INTRODUCTION

1. This is an action for declaratory and injunctive relief against Hennepin County, Rachel M. Smith, Elections Manager for Hennepin County, Ramsey County Elections Manager Joe Mansky, and Minnesota Secretary of State Mark Richie for the violation of the United States and Minnesota Constitutions' protection of free speech, association, and the right to vote of the individual Plaintiffs and Plaintiffs members or supporters of Minnesota Majority, Minnesota Voters Alliance, and the Minnesota Northstar Tea Party Patriots—all 501(c)(4) member organizations. Plaintiffs Minnesota Majority, Minnesota Voters Alliance, and the Minnesota Northstar Tea Party Patriots are also part of a grass roots coalition referred to as "Election Integrity Watch." The coalition designed, made and distributed a button to its members and supporters that states "Please I.D. Me."

2. Plaintiff Susan Jeffers is a Ramsey County Election Judge who has been directed to exclude eligible voters from polling places for wearing the Election Integrity Watch non-campaign button "Please I.D. Me." In addition, as an election judge, she has been directed to exclude eligible voters from polling places for wearing non-campaign shirts offered by the Plaintiff Northstar Tea Party Patriots.

3. The policies of excluding poll watchers or eligible voters for wearing non-campaign buttons or shirts have been expressly made through the Ramsey County Election Manager Joe Mansky to Ramsey County election judges; through declarations by Mike Freeman, Hennepin County Attorney; and approved, upon information and belief, by Minnesota Secretary

of State Mark Richie, the chief election officer for the State of Minnesota.

4. The statutory interpretations made and policies promulgated by County and State officials are violative of the freedom of speech, the freedom of association, and the freedom to vote as protected under the article 1 § 3 of the Minnesota Constitution and the First Amendment of the United States Constitution. Furthermore, the state and county interpretations of the statute in question show the facial unconstitutionality—and as applied—of Minn. Stat. § 211B.11 as not being narrowly tailored to meet a compelling state interest.

5. Injunctive relief is necessary to allow eligible voters to peacefully exercise their right to vote within the polling place on election day while expressing their constitutionally protected right to free speech, and to direct election judges that they may not preclude eligible voters from the polling place for wearing non- campaign shirts or buttons, inclusive of poll watchers.

JURISDICTION

6. This Court has jurisdiction under 28 U.S.C. §§ 1331, 1343 (1)-(4) and 42 U.S.C. §§ 1983, 1985(2), (3) and § 1988 (civil rights statutes) and the First Amendment of the United States Constitution.

7. This Court is authorized to grant declaratory and injunctive relief under 28 U.S.C. §§ 2201 and 2202, Federal Rules of Civil Procedure 57 and 65, and has general legal and equitable powers.

8. Venue is proper in this Court under 28 U.S.C. § 1391. Plaintiffs further invokes the pendent

jurisdiction of this Court to consider claims arising under state law.

PARTIES

Plaintiffs

9. Plaintiff Minnesota Majority is a Minnesota 501(c)(4) nonprofit organization with members formed in the interest of transparency in government, protecting identified values as they interrelate with political issues, including oversight, investigation, and reform concerning election and voter or voter registration irregularities. It is an association of members. Minnesota Majority does not endorse candidates seeking elected or appointed offices.

10. Plaintiff Minnesota Voter Alliance is a Minnesota 501(c)(4) nonprofit organization with members formed with the primary purpose of empowering the electorate, with interests inclusive of the integrity of the election process. It is a non-partisan, and is not affiliated with any political party or organization. Minnesota Voters Alliance does not endorse candidates seeking elected or appointed offices.

11. Plaintiff Northstar Tea Party Patriots is a Minnesota 501(c)(4) nonprofit member organization. It is not a political party. It is a coalition of local associations in Minnesota with a mission to attract, educate, organize, and mobilize citizens to secure public policies consistent with values inclusive of fiscal responsibility, constitutionally limited government and free markets. Northstar Tea Party Patriots does not endorse candidates seeking elected or appointed offices.

12. Plaintiff Election Integrity Watch is the coalition of the Plaintiffs Minnesota Majority, Minnesota Voters Alliance, and the Minnesota Northstar Tea Party Patriots.

13. Under Minn. Stat. § 200.02, a "political party" means an association of individuals under whose name a candidate files for partisan office. Under this definition, Election Integrity Watch, Minnesota Majority, Minnesota Voters Alliance, and Minnesota Northstar Tea Party Patriots are not political parties.

14. Plaintiff Susan Jeffers is an eligible and registered voter in Minnesota, residing at 1720 20th Avenue NW, New Brighton. Ms. Jeffers is an election judge in Ramsey County, Minnesota.

15. Plaintiff Jeff Davis is an eligible and register voter in Ramsey County, Minnesota.

16. Plaintiff Dorothy Fleming is an eligible and registered voter in Hennepin County, Minnesota.

17. Plaintiff Dan McGrath is an eligible and registered voter in Hennepin County, Minnesota.

18. Plaintiff Eugene F. Delaune II is an eligible and registered voter in Ramsey County, Minnesota.

19. Plaintiff Randy Liebo is an eligible and registered voter in Hennepin County, Minnesota.

Defendants

20. Defendant Joe Mansky is the Elections Manager for Ramsey County, Minnesota. Mr. Mansky is responsible for the conduct of elections in Ramsey County such as the enforcement of statutory

prohibitions on electioneering, including but not limited to identifying eligible and ineligible voters, the conduct within polling places as it relates to campaign materials and the training and oversight of Ramsey County election judges.

21. Defendant Rachel M. Smith is the Elections Manager for Hennepin County, Minnesota. Ms. Smith is responsible for the conduct of elections in Hennepin County such as the enforcement of statutory prohibitions on electioneering, including but not limited to identifying eligible and ineligible voters, the conduct within polling places as it relates to campaign materials and the training and oversight of Hennepin County election judges.

22. Defendant Mike Freeman is the Hennepin County Attorney. He is responsible for preserving the freedom of speech of citizens and for the enforcement of laws through his office within the County including petty misdemeanors. Mr. Freeman individually and through his office is also responsible for the constitutional enforcement of statutory prohibitions on electioneering.

23. Defendant Susan Gaertner is the Ramsey County Attorney. She is responsible for preserving the freedom of speech of citizens and for the enforcement of laws through her office within the County including petty misdemeanors. Ms. Gaertner individually and through her office is also responsible for the constitutional enforcement of statutory prohibitions on electioneering.

24. Defendant Mark Richie is the Minnesota Secretary of State. As Secretary of State, Mr. Richie is the statewide election officer responsible for the

policies relating to the conduct of elections within the State. Mr. Richie directly communicates with County Election Managers, or their equivalent officials, on election matters inclusive of the conduct within polling places as it relates to election judges or other poll workers.

25. At all times relevant to the allegations of this Complaint, and in all actions described, the defendants acted under color of law and under the authority bestowed upon them as county or state officials.

Constitutional and Statute Provisions at Issue

26. The First Amendment of the United States Constitution states that "Congress shall make no law . . . abridging the freedom of speech, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

27. Article 1 § 3 of the Minnesota Constitution states that "all persons may freely speak, write, and publish their sentiments on all subjects . . . ."

28. Minnesota Statute § 211B.11, subd. 1 states that:

> A person may not display campaign material, post signs, ask, solicit, or in any manner try to induce or persuade a voter within a polling place . . . on primary or election day to vote for or refrain from voting for a candidate or a ballot question . . . A political badge, political button, or other political insignia may not be worn at or about the polling place on primary or election day

* * *

Subd. 4. . . . Violation of this section is a petty misdemeanor.

FACTS

Election Integrity Watch "Please I.D. Me" buttons are not political and are not associated with any Minnesota political campaign.

29. In preparation for the 2010 election, Plaintiffs Minnesota Majority, Minnesota Voters Alliance and the Minnesota Northstar Tea Party Patriots formed a coalition referred to as "Election Integrity Watch."

30. Election Integrity Watch is not a political party under Minn. Stat. § 200.02 which states that a "political party" means an association of individuals under whose name a candidate files for partisan office.

31. Election Integrity Watch is a concerned grass roots effort to protect election integrity.

32. Poll watchers are allowed on election day.

33. Election Integrity Watch has instructed individuals to act as poll watchers outside polling places and within them only when voting or when otherwise authorized to be in the polling place.

34. Each individual has been instructed to observe the election process only and not to interfere with any person's attempt to vote, or vote on this coming election day, November 2, 2010.

35. The Election Integrity Watch created a button that states "PLEASE I.D. ME." (See Exhibit A).

36. The Election Integrity Watch button also provides a telephone number—"877.602.WATCH."

37. The Election Integrity Watch button also provides a website "ELECTIONINTEGRITYWATCH.COM."

38. The Election Integrity Watch also has as a background for the previously referenced wording and number, a design that appears as a human eye–similar to that found on the back of the U.S. dollar bill.

39. Election Integrity Watch has disseminated its button and instructed its separate organizational members and supporters to wear the "Please I.D. Me" button on the forthcoming election day, November 2, 2010, in their respective polling places.

40. There is no ballot question for Minnesota voters to vote upon regarding voter identification or other voter identification issues.

41. There is no political campaign related to voter identification.

Minnesota Northstar Tea Party Patriots offered shirts and hats are not political endorsements of any candidate and are not associated with any Minnesota political campaign.

42. Plaintiff Minnesota Northstar Tea Party Patriots (Northstar Patriots) is not a political party under Minn. Stat. § 200.02 which states that a "political party" means an association of individuals under whose name a candidate files for partisan office.

43. The Northstar Patriots does not endorse candidates for elected office.

44. None of the associations associated with the Northstar Patriots endorse candidates for elected office.

45. Plaintiff Northstar Patriots offers to the public shirts and hats that reflect the values of the organization inclusive of subjects such as fiscal responsibility, constitutionally limited government and free markets.

46. The Northstar Patriots shirts offered have statements, phrases, or slogans such as "Don't tread on me," "Liberty," We'll Remember in November," "Fiscal Responsibility, Limited Government, Free Markets" or a drawing of a shield.

47. Each shirt or hat includes the logo "Tea Party Patriots." (See Exhibit B).

48. There is nothing in any particular shirt or that phrase or slogan that endorses, causes confusion, undue influence, or is in any other way related to a political campaign.

49. Each slogan is reflective of the wearer's association with a particular group that does not endorse candidates or ballot questions.

Minnesota Majority has done work regarding election integrity issues since prior to the 2008 election, but the Secretary of State, Hennepin County, and Ramsey County officials have opposed these efforts.

50. Plaintiff Minnesota Majority has engaged in scrutinizing election processes since prior to the 2008 election.

51. Inclusive of its studies of election processes, Minnesota Majority has examined public records regarding specific issues such as non-eligible voters—non-citizens or non-eligible felons for instance—who may have voted during the election of 2008.

52. In 2009 and most recently in 2010, the Secretary of State, Hennepin County, and Ramsey County officials have resisted attempts by Minnesota Majority to protest alleged improper procedures by the Secretary of State, or to obtain public records to examine and produce studies relating to for instance, non-citizens.

53. The Secretary of State after the filing of the Minnesota Majority's Petition before the Minnesota Supreme in 2009 regarding inaccuracies relating to the Statewide Voter Registration System, admitted that more ballots were cast than voters counted for in the thousands (*See, Minnesota Majority, et al. v. Kitt Johnson, et al.*, Court No. A09-950).

54. In 2010, the Secretary of State, Hennepin County, and Ramsey County officials fought Minnesota Majority's attempt to obtain and preserve certain State public records for purposes of study and research relating to non-citizen status and voter registration related issues. (*See, In re Minnesota Majority*, Court File No. 62-CV-10-8233).

55. The Election Integrity Watch coalition is a natural outcome of the interests of all three independent organizations working in areas of election integrity processes.

Ramsey County Election Manager, Joe Manksy, determined and has instructed that Election Integrity Watch "Please I.D. Me" buttons and "Tea Party" messages of any kind would not be allowed in polling places.

56. Plaintiff Sue Jeffers is a Ramsey County Election Judge.

57. Ms. Jeffers contacted Joe Mansky, Ramsey County Election Director regarding certain rumors relating to Election Integrity Watch "Please I.D. Me" buttons and "Tea Party" shirts on October 19, 2010.

58. Mr. Mansky stated to Ms. Jeffers that Election Integrity Watch "Please I.D. Me" buttons would be prohibited in Ramsey County polling places.

59. Mr. Mansky stated to Ms. Jeffers that "Tea Party" messages of any kind—even if they did not support or oppose a candidate, or an issue on the ballot—worn by any person, would be prohibited in Ramsey County polling place.

60. Ms. Jeffers was "shocked" at the prohibition Mr. Mansky promulgated regarding the "Please I.D. Me" buttons and "Tea Party" shirts.

61. As an election judge, Ms. Jeffers will be responsible for enforcing the Ramsey County policy of prohibiting a person in the polling place that is wearing either a "Please I.D. Me" button or a "Tea Party" shirt.

62. As an election judge, Ms. Jeffers disagrees with Mr. Mansky's policy decision of prohibiting people who are wearing "Please I.D. Me" buttons or

"Tea Party" shirts from the polling place as contrary to voting rights, free speech and association principles.

Hennepin County polling workers will prohibit the wearing of "Please I.D. Me" buttons in polling places as directed by County Attorney Mike Freeman.

63. Hennepin County Attorney Mike Freeman also publicly stated that poll watchers wearing buttons asking for their I.D. (identification) "won't be allow[ed] in polling stations." Mr. Freeman equated the Election Integrity Watch "Please I.D. Me." Buttons as campaign buttons stating, "You can't wear campaign buttons in a polling place, state law says you can't."

64. Hennepin County Election Manager Rachel Smith has stated that she considers her office obligated to follow the dictates of the Hennepin County Attorney's pronouncement on the prohibition of "Please I.D. Me" buttons in Hennepin County election polling places on November 2, 2010.

The Secretary of State as Minnesota's chief election officer and as the final arbiter of election law applicability in the polling place, will uphold decisions of County Election managers prohibiting "Please I.D. Me" buttons and Tea Party shirts.

65. Upon information and belief, the Secretary of State Mark Richie, as Minnesota's chief election officer responsible for the integrity and conduct of elections throughout the state, is the final arbiter of instructions and directions provided to

election managers, or their equivalent officials, regarding the interpretation and application of elections laws within polling places.

66. Upon information and belief, the Secretary of State endorses and will uphold the decision of county election managers to prohibit individuals from wearing "Please I.D. Me" buttons or "Tea Party" shirts as previously identified in this Complaint.

Plaintiff Jeff Davis fears prosecution for expressing his rights of freedom of speech and association for wearing a non-campaign button on election day.

67. Plaintiff Jeff Davis is an eligible voter residing in Ramsey County and is an advocate of the Election Integrity Watch effort. He has a "Please I.D. Me" button, wears, and will wear that button into the polling place on November 2, 2010.

68. Mr. Davis views the "Please I.D. Me" button as an expression of free speech that does not support any Minnesota political campaign ballot question or candidate.

69. Mr. Davis further views the "Please I.D. Me" button as an expression of his association with the grass roots coalition of Election Integrity Watch.

70. Mr. Davis is aware of the pronouncements of Defendant Joe Mansky prohibiting "Please I.D. Me" buttons from polling places.

71. Mr. Davis is also aware that he can be prosecuted under Minn. Stat. § 211B.11 as it relates to Mr. Mansky's prohibition of the "Please I.D. Me"

buttons. As a result, Mr. Davis fears prosecution for his expression of freedom of speech and association for wearing the button "Please I.D. Me."

72. Mr. Davis is further concerned that if he does not relinquish the display of his "Please I.D. Me" button, he will be prevented from voting.

Plaintiff Randy Liebo further fears prosecution for expressing her rights of freedom of speech and association for wearing a non-campaign shirt on election day.

73. Plaintiff Randy Liebo is an eligible voter residing in Hennepin County. He is an advocate of the Northstar Patriots effort. He has a Tea Party Patriot shirt, wears it, and will wear that shirt into the polling place on November 2, 21010.

74. Mr. Liebo views the "Tea Party Patriots" shirt as an expression of free speech that does not support any Minnesota political campaign ballot question or candidate.

75. Mr. Liebo further views the "Tea Party Patriots" shirt as an expression of her association with the Minnesota Northstar Tea Party Patriots coalition to demand governmental integrity.

76. Mr. Liebo is aware of the pronouncements of Defendant Joe Mansky prohibiting "Tea Party Patriots" shirts from polling places. He is further concerned that the pronouncement of Joe Mansky's directive of Minnesota's election laws will be enforced in the same manner in Hennepin County.

77. Mr. Liebo is also aware that he can be prosecuted under Minn. Stat. § 211B.11 as it relates to any enforced prohibition of the "Tea Party Patriots" shirts in or around polling places. As a result, he fears prosecution for his expression of speech and his association with the Northstar Patriots for wearing the "Tea Party Patriots" shirt.

78. Mr. Liebo is further concerned that if he does not relinquish the display of his "Tea Party Patriots" shirt, he will be prevented from voting.

Plaintiffs Dan McGrath and Dorothy Fleming fear prosecution for expressing their rights of freedom of speech and association for wearing a non-campaign button on election day.

79. Plaintiff Dan McGrath and Plaintiff Dorothy Fleming are eligible voters residing in Hennepin County and are advocates of the Election Integrity Watch effort. They have "Please I.D. Me" buttons, wear them, and will wear the buttons into the polling place on November 2, 2010.

80. They view the "Please I.D. Me" button as an expression of free speech that does not support any Minnesota political campaign ballot question or candidate.

81. They further view the "Please I.D. Me" button as an expression of their association with the grass roots coalition of Election Integrity Watch.

82. They are aware of the pronouncements of Defendant Mike Freeman, Hennepin County Attorney, not to allow "Please I.D. Me" buttons in polling places—viewing them as campaign buttons.

83. They are also aware that they can be prosecuted under Minn. Stat. § 211B.11 as it relates to Mr. Freeman's pronouncement that wearing of the "Please I.D. Me" button is a violation of state law. As a result, they fear prosecution for their expression of speech and their association with Election Integrity Watch for wearing the button "Please I.D. Me."

84. Mr. McGrath and Ms. Fleming are concerned that if they do not relinquish the display of their respect "Please I.D. Me" buttons, they will be prevented from voting.

COUNT I

Violation of the First Amendment of the United States Constitution and Threats to the Plaintiffs' Right to Vote

85. The Plaintiffs adopts and incorporates by reference paragraphs 1 through 84 as if fully stated.

86. The First Amendment of the United States Constitution guarantees individuals the right to free speech and association.

87. The First Amendment of the United States Constitution guarantees individuals the right to vote.

88. The Defendants either intentionally, recklessly, or with callous indifference to the federally protected rights of the Plaintiffs have threatened, silenced, or chilled their rights to freedom of speech and association by the improper adoption of policies prohibiting the wearing of non-campaign "Please I.D. Me" buttons of the Election Integrity Watch, or shirts (or hats) expressing certain slogans, phrases, or

statements as offered by the Minnesota Northstar Tea Party Patriots.

89. Neither the "Please I.D. Me" buttons nor the "Tea Party Patriots" shirts attempt to persuade or influence voters to vote for or against any particular candidate, ballot question, or political party in the November 2, 2010 election.

90. The Defendants' policies were established causing irreparable harm to the federally protected rights of the Plaintiffs' freedom of speech and association, to harass, threaten, silence, and chill these constitutional rights by directing election judges, poll workers, or others responsible for the conduct of elections and voters in polling places to prohibit the Plaintiffs' presence in or around polling places.

91. The Defendants have further failed to properly educate, train, and instruct election judges, poll workers, or others responsible for the conduct of elections and voters in polling places in the proper enforcement of election laws, namely Minn. Stat. § 211B.11, in a manner to avoid the threatened intentional, reckless, or callous indifference to the Plaintiffs' federally protected rights of freedom of speech and association.

92. Further, the enforcement of the Defendants' directives threatens to deprive the Plaintiffs of their right to vote without due process of law.

93. An actual live controversy exists between the Plaintiffs and the Defendants in which the parties have genuine and opposing interests that

are direct and substantial and of which a judicial determination will be final and conclusive.

94. Plaintiffs request this Court to issue declaratory and injunctive relief under 42 U.S.C. §1983 to cease and prevent the Defendants' conduct of intentional, reckless, and oppressive disregard of Plaintiffs' First Amendment rights, and further award appropriate monetary damages against the Defendants, with the exception of the Secretary of State, inclusive of costs, attorney fees, and any other relief as this Court deems justified.

COUNT II

Violation of Article 1 § 3 of the Minnesota Constitution Protections of Freedom of Speech and Association and Threats to Plaintiffs' Right to Vote.

95. The Plaintiffs adopts and incorporates by reference paragraphs 1 through 94 as if fully stated.

96. Article 1 § 3 of the Minnesota Constitution guarantees individuals the right to free speech and association.

97. Article 1 § 3 of the Minnesota Constitution guarantees individuals the right to vote.

98. The Defendants either intentionally, recklessly or with callous indifference to Minnesota's constitutionally protected rights of the Plaintiffs have threatened, silenced, or chilled their rights to freedom of speech and association by the improper adoption of policies prohibiting the wearing of non-campaign "Please I.D. Me" buttons of the Election Integrity Watch or shirts (or hats) expressing certain slogans,

phrases, or statements offered by the Minnesota Northstar Tea Party Patriots.

99. Neither the "Please I.D. Me" buttons nor the "Tea Party Patriots" shirts attempt to persuade or influence voters to vote for or against any particular candidate, ballot question or political part in the November 2, 2010 election.

100. The Defendants' policies were established causing irreparable harm to Minnesota's constitutionally protected rights of the Plaintiffs freedom of speech and association, to harass, threaten, silence, and chill these constitutional rights by directing election judges, poll workers, or others responsible for the conduct of elections and voters in polling places to prohibit the Plaintiffs presence in or around polling places.

101. The Defendants have further failed to properly educate, train, and instruct election judges, poll workers, or others responsible for the conduct of elections and voters in polling places in the proper enforcement of election laws, namely Minn. Stat. § 211B.11, in a manner to avoid the threatened intentional, reckless, or callous indifference to the Plaintiffs state constitutionally protected rights of freedom of speech and association.

102. Further, the enforcement of the Defendants' directives threatens to deprive the Plaintiffs of their right to vote without due process of law.

103. An actual live controversy exists between the Plaintiffs and the Defendants in which the parties have genuine and opposing interests that

are direct and substantial and of which a judicial determination will be final and conclusive.

104. Plaintiffs request this Court to declare under the Minnesota Constitution that the Defendants have violated constitutionally protected rights and enjoin them to cease and prevent them from conducting any intentional, reckless, and oppressive act resulting in the disregard of Plaintiffs' rights to freedom of speech and association, and award appropriate monetary damages, with the exception of the Secretary of State, against the Defendants inclusive of costs, attorney fees, and any other relief as this Court deems justified.

Count III

Facially, Minn. Stat. § 211B.11 is Constitutionally Invalid Under the United States and Minnesota Constitutions.

105. The Plaintiffs adopts and incorporates by reference paragraphs 1 through 104 as if fully stated.

106. Minnesota Statue 211B.11, subd. 1 states that

> A person may not display campaign material, post signs, ask, solicit, or in any manner try to induce or persuade a voter within a polling place . . . . on primary or election day to vote for or refrain from voting for a candidate or a ballot question . . . A political badge, political button, or other political insignia may not be worn at or about the polling place on primary or election day
>
> * * *

> Subd. 4. . . . Violation of this section is a petty misdemeanor.

107. Plaintiffs Minnesota Majority, Minnesota Voters Alliance, and Minnesota Northstar Tea Party Patriots have formed a coalition identified as the Election Integrity Watch.

108. Election Integrity Watch is not a political party and does not endorse candidates for elected office or promote or seek to defeat ballot questions.

109. Election Integrity Watch creates and distributes "Please I.D. Me" button.

110. The statement "Please I.D. Me" is not a "political" badge, a "political" button" or a "political" insignia.

111. The "Please I.D. Me" button is not worn for a "political purpose" as defined under Minn. Stat. § 211B.01.

112. Minnesota Statute § 211B.01 defines "political purpose" as an act that is intended or done to influence, directly or indirectly, voting at a primary or other election.

113. The "Please I.D. Me" button is not campaign material as defined under Minn. Stat. § 211B.01.

114. Minnesota Statute § 211B.01 defines "campaign materials" as an act means any literature, publication, or material that is disseminated for the purpose of influencing voting at a primary or other election.

115. Meanwhile, the State of Minnesota makes and distributes "I voted" buttons to voters in

the polling place and is allowed to do so under Minn. Stat. § 211B.11.

116. Minnesota Statute 211B contains no definition of "political." Therefore, since Election Integrity Watch is not a political party and does not endorse candidates, support or seek to defeat ballot questions, the word "political" as seen in the context of the facts of this case is facially and as applied constitutionally invalid.

117. Facially, Minnesota Statute 211B.11 is facially unconstitutional because it is not viewpoint neutral, is not narrowly tailored to meet a compelling state interest, is unconstitutionally overbroad and vague. It impedes or threatens to impede the federally protected rights of freedom of speech and association the Plaintiffs seek to achieve and practice.

118. Violation of Minn. Stat. § 211B.11 can result in criminal prosecution.

119. Election managers, election judges, poll workers, and any other person responsible with the conduct of the election process in polling places are obligated to follow and enforce the directives of the statute, which has and will result, because of the way it is written, in the unconstitutional prohibition of certain individuals, such as members or supporters of Plaintiff organizations and coalition from wearing non-campaign buttons and clothing into polling places—perhaps even discouraging them from voting which is and would be a violation of their voting rights.

120. An actual live controversy exists between the Plaintiffs and the Defendants in which the parties have genuine and opposing interests that

are direct and substantial and of which a judicial determination will be final and conclusive.

121. As a result, the Plaintiffs request this Court to declare Minn. Stat. § 211B.11 facially unconstitutional as violative of the First Amendment of the United States Constitution and the Minnesota State Constitution.

JURY DEMAND

122. Plaintiffs demand a jury trial.

REQUEST FOR RELIEF

1. Plaintiffs have no adequate legal, administrative, or other remedy by which to prevent or minimize the continuing and threatened irreparable harm from the Defendants' present and threatened irreparable harm to their constitutional rights.

2. An actual live controversy exists between the Plaintiffs and the Defendants in which the parties have genuine and opposing interests that are direct and substantial and of which a judicial determination will be final and conclusive.

3. The Plaintiffs have a likelihood of success on the merits of their claims.

4. The public interest and equities favor entry of a court order granting the Plaintiffs the following described declaratory relief, as well as temporary, preliminary, and permanent injunctive relief

WHEREFORE, the Plaintiffs prayerfully request that this Court:

A. Declare that the Defendants are acting in violation of the First Amendment of the United States Constitution;

B. Declare that the Defendants are acting in violation of Article 1 § 3 of the Minnesota State Constitution;

C. Declare Minn. Stat. § 211B.11 is facially unconstitutional under the United States Constitution and the Minnesota Constitution;

D. Enjoin all of the Defendants from the enforcement of policies preventing any citizen from wearing the "Please I.D. Me" button or any "Tea Party Patriot" shirts (or hats) in polling places on November 2, 2010;

E. Order all of the Defendants to immediately provide training and instruction to all election judges, poll workers, and all other individuals under the supervision and control of the Defendants responsible for the conduct of elections within the polling places that the wearing of "Please I.D. Me" buttons or any "Tea Party Patriots" shirt or hat does not infringe upon Minn. Stat. § 211B.11, and that the wearing of the button, shirt, or hat is protected speech and association of that person under the United States and Minnesota Constitutions;

F. Award compensatory damages and punitive damages against Defendants with the exception of the Secretary of State if warranted;

G. Award Plaintiffs their reasonable attorney fees, litigation expenses, and costs as allowed under 42 U.S.C. § 1988, and other applicable laws, and grant such other relief as this Court deems just to the Plaintiffs and their attorneys.

MOHRMAN & KAARDAL, P.A.

Dated: October 28, 2010

s/Erick G. Kaardal
Erick G. Kaardal, 229647
33 South Sixth Street, Suite 4100
Minneapolis, Minnesota 55402
Telephone: 612-341-1074

Attorney for Plaintiffs

STATE OF MINNESOTA) FILED 10/29/10
)ss.
COUNTY OF RAMSEY)

AFFIDAVIT OF SUE JEFFERS

Sue Jeffers ("Affiant"), being first duly sworn, on oath, deposes and says as follows:

1. I am a registered voter of the State of Minnesota, residing at 1720 20th Ave NW, New Brighton.

2. I am an election judge in Ramsey County, Minnesota.

3. On Tuesday, October 19th at approximately 10:30 AM, in my capacity as both an election Judge in Ramsey County and as a news talk radio host called Ramsey County Election Director Joe Mansky to make inquiries about rumors that non-partisan "Tea Party" apparel and buttons would be prohibited from the polling places on Election Day by Ramsey County. He confirmed that "Tea Party" messages of any kind, even though they are not in support of or opposition to candidates or issues on the ballot. I also inquired about the status of Election Integrity Watch's "Please ID ME/ ElectionIntegrityWatch.com" buttons that volunteer poll watchers are being asked to wear to the polls. Mr. Mansky told me that the "Please ID Me" buttons would not be allowed in the polling place. I was shocked and said, "so nobody could wear a Vikings jersey to the polls because it is pro-stadium?" Mr. Mansky replied that a Vikings jersey could be construed as political if there was a ballot

measure regarding construction of a new Vikings stadium that year.

4. Prior to my phone conversation with Mr. Mansky, I received election judge training from him. At that time he made no mention of either Tea Party apparel or Election Integrity Watch buttons being prohibited from the polling place.

5. In my conversation with Mr. Mansky, I inquired how election judges are supposed to know what apparel and buttons are allowed and which are prohibited. He asked if I would like him to send out a memo to head election judges explaining the policy. I told him that was a good idea and he said he would do so.

FURTHER YOUR AFFIANT SAYETH NOT.

Subscribed and sworn to before me
this 21st day of October, 2010

s/ Sue Jeffers
Sue Jeffers

s/ Karen Mitchell-Clark
Notary Public

NOTARY PUBLIC SEAL

STATE OF MINNESOTA) FILED 10/29/10
)ss.
COUNTY OF RAMSEY)

AFFIDAVIT OF COLIN WILKINSON

COLIN WILKINSON ("Affiant"), being first duly sworn, on oath, deposes and says as follows:

1. I am a registered voter of the State of Minnesota, residing at 1019 FREMONT AV ST. PAUL MINNESOTA.

2. I am an election judge in Ramsey County, Minnesota.

3. In the course of attending election judge training, I witnessed the following:

> Joe Mansky Ramsey County ELECTION SUPERVISOR LED A TRAINING SESSION ON MONDAY September 27. The topic of acceptable attire the election site was covered. A question was asked if "TEA PARTY" SHIRTS AND BUTTONS WERE ACCEPTABLE or was it to be considered campaign material. Mr. Mansky said "yes, a shirt that said Tea Party would be considered campaign material" and WOULD NOT BE ALLOWED IN THE ELECTION SITE.

FURTHER YOUR AFFIANT SAYETH NOT.

Subscribed and sworn to before me
this 21st day of October, 2010

s/Colin Wilkinson
Colin Wilkinson

s/Eric Luis Negron
Notary Public

NOTARY PUBLIC SEAL

STATE OF MINNESOTA) FILED 10/29/10
)ss.
COUNTY OF HENNEPIN)

AFFIDAVIT OF DANIEL MCGRATH

Dan McGrath ("Affiant"), being first duly sworn, on oath, deposes and says as follows:

1. I am a registered voter of the State of Minnesota, residing at 3429 Snelling Avenue, Minneapolis.

2. Having been informed that Ramsey County was training election judges to disallow "Tea Party" apparel in the polling places and having heard speculation that the "Please ID ME/Election Integrity Watch" buttons worn by fraud-spotter volunteers on Election Day may be similarly prohibited, on Tuesday, October 19th at 9:27 A.M. I called the information line at the election office of Ramsey County. A woman answered. I did not get her name. I explained what I'd heard regarding the Tea Party apparel being prohibited at the polling places. The election office worker confirmed that would be Ramsey County's policy, that Tea Party apparel, buttons and the like would not be allowed in the polling places. For clarification, I asked if this could apply even though such materials convey a philosophy and do not support candidates, political parties or ballot measures. The election office worker answered in the affirmative, confirming that such materials would not be allowed. At 9:47 AM I called the Ramsey County elections office again to inquire specifically about the "Please ID Me/Election Integrity Watch" buttons. A different woman

answered my call. I did not ask for her name. I asked if the buttons would be prohibited in Ramsey County. I was put on hold for several minutes and when the woman returned, she informed me that "right now, we're considering those buttons political campaign materials and they will not be allowed in the polling places." She went on to explain that I could wear my button to the polling place and simply take it off or cover it up when I entered to vote and that I could put it right back on when I left the polling place.

FURTHER YOUR AFFIANT SAYETH NOT.

Subscribed and sworn to before me
This 21st day of October, 2010

s/Dan McGrath
Dan McGrath

s/Karen Mitchell-Clark
Notary Public

NOTARY SEAL

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Minnesota Majority, Minnesota Voters Alliance, Minnesota Northstar Tea Party Patriots, Election Integrity Watch, Susan Jeffers, individually and as an election judge, Dorothy Fleming, Jeff Davis, Dan McGrath, Eugene F. Delaune II, and Randy Liebo, Plaintiffs, vs. Joe Mansky in his official capacity as the Elections Manager for Ramsey County, Rachel M. Smith in her official capacity as the Elections Manager for Hennepin County, Mike Freeman in his official capacity as Hennepin County Attorney, Susan Gaertner in her official capacity as Ramsey County Attorney, and Mark Richie in his official capacity as Secretary of State, Defendants.	Court File No. 10-CV-4401 JNE/SRN **DECLARATION OF RANDY LIEBO** FILED 10/29/10

DECLARATION

I, Randy Liebo, declare and make the following statements:

1. I am an eligible and registered voter in Hennepin County, Minnesota.

2. I own and wear shirts from the "Tea Party Patriots" with slogans such as "Don't tread on me," "Liberty," We'll Remember in November," "Fiscal Responsibility, Limited Government, Free Markets" or a drawing of a shield.

3. I also will wear one of my Tea Party Patriot T-shirts on November 2, 2010, election day, in my respective polling place when I cast my vote in Hennepin County.

4. I did not expect the prohibition of these T-shirts from the polling place, and if not removed or covered, the resulting deprivation of my right to vote.

5. I believe these items are expressions of free speech or association with the group.

6. I believe there is nothing in the wearing of the shirt that endorses (or proposes the defeat of) a specific candidate or ballot question.

7. I am also familiar with Minnesota Northstar Tea Party Patriots as an organizer for that association.

8. Plaintiff Minnesota Northstar Tea Party Patriots (Northstar Patriots) is not a political party under Minn. Stat. § 200.02 which states that a "political party" means an association of individuals under whose name a candidate files for partisan office.

9. Furthermore, the Northstar Patriots does not endorse candidates for elected office and none of the associations associated with the Northstar Patriots endorse candidates for elected office.

10. There are opportunities for people to purchase Tea Party Patriot shirts or hats that reflect the values of the organization inclusive of subjects such as fiscal responsibility, constitutionally limited government and free markets.

11. The shirts (or hats) do not endorse any candidate or question on November 2, 2010.

12. There is nothing in any particular shirt or that phrase or on in any phrase or slogan that endorses, causes confusion, undue influence, or is in any other way related to a political campaign.

13. While the slogan may reflect the wearer's association with a particular group such as the Northstar Patriots, or even Election Integrity Watch, none endorse candidates or ballot questions (or the defeat of a ballot question or candidate).

14. I am an advocate of the Northstar Patriots effort.

15. I have a Tea Party Patriot shirt, I wear it, and will wear that shirt into the polling place on November 2, 2010 and in future elections.

16. I view the "Tea Party Patriots" shirt as an expression of free speech that does not support any Minnesota political campaign ballot question or candidate, and further views the "Tea Party Patriots" shirt as an expression of my association with the Minnesota Northstar Tea Party Patriots coalition to demand governmental integrity.

17. I am aware of the pronouncements of Defendant Joe Mansky prohibiting "Tea Party Patriots" shirts from Ramsey County polling places.

18. I am also aware that I can be prosecuted under Minn. Stat. § 211B.11 as it relates to any enforced prohibition of the "Tea Party Patriots" shirts in or around polling places.

19. As a result, I fear prosecution for my expression of speech and my association with the Northstar Patriots for wearing the "Tea Party Patriots" shirt.

20. Finally, I am further concerned that if I do not relinquish the display of my "Tea Party Patriots" shirt, I will be prevented from voting on November 2, 2010.

I declare under penalty of perjury under the laws of the United States of America that the forgoing is true and correct.

Dated: October 29, 2010

s/Randy Liebo
Randy Liebo

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Minnesota Majority, Minnesota Voters Alliance, Minnesota Northstar Tea Party Patriots, Election Integrity Watch; Susan Jeffers, individually and as an election judge; Dorothy Fleming, Jeff Davis, Dan McGrath, Eugene F. Delaune II, and Randy Liebo, Plaintiffs, vs. Joe Mansky in his official capacity as the Elections Manager for Ramsey County, Rachel M. Smith in her official capacity as the Elections Manager for Hennepin County, Mike Freeman in his official capacity as Hennepin County Attorney, Susan Gaertner in her official capacity as Ramsey County Attorney, and Mark Richie in his official capacity as Secretary of State, Defendants.	Court File No. 10-CV-4401 JNE/SRN **DECLARATION OF DOROTHY FLEMING** FILED 10/29/10

DECLARATION

I, Dorothy Fleming, declare and make the following statements:

1. I am an eligible and registered voter in Hennepin County, Minnesota.

2. I own and will wear a button made by Election Integrity Watch that states "Please I.D. Me."

3. I also will wear the "Please I.D. Me" button on November 2, 2010, election day in my respective polling place when I cast my vote in Hennepin County.

4. I did not expect election officials or other county officials to announce the prohibition of the "Please I.D. Me" button from the polling place, and if not removed or covered I fear will result in the deprivation of my right to vote.

5. I believe wearing the button is a legitimate expression of my right to free speech and association with Election Integrity Watch.

6. I believe there is nothing wrong in the wearing of the button because it does not endorse (or propose the defeat of) a specific candidate or ballot question.

7. I am an eligible voter residing in Hennepin County and I am an advocate of the Election Integrity Watch efforts against illegal voting and other illegal campaign practices.

8. I am aware of the pronouncements of Defendant Mike Freeman, Hennepin County Attorney and my county attorney, not to allow "Please I.D. Me"

buttons in polling places—viewing them as campaign buttons.

9. I am also aware that I could be prosecuted under Minn. Stat. § 211B.11 as it relates to Mr. Freeman's pronouncement that wearing of the "Please I.D. Me" button is a violation of state law.

10. As a result, I fear prosecution for my expression of speech and association with Election Integrity Watch for wearing the button "Please I.D. Me" in the polling place.

11. I am concerned that if I do not relinquish the display of my "Please I.D. Me" button, I will be prevented from voting.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: October 29, 2010

s/Dorothy Fleming
Dorothy Fleming

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Minnesota Majority, Minnesota Voters Alliance, Minnesota Northstar Tea Party Patriots, Election Integrity Watch; Susan Jeffers, individually and as an election judge; Dorothy Fleming, Jeff Davis, Dan McGrath, Eugene F. Delaune II, and Randy Liebo, Plaintiffs, vs. Joe Mansky in his official capacity as the Elections Manager for Ramsey County, Rachel M. Smith in her official capacity as the Elections Manager for Hennepin County, Mike Freeman in his official capacity as Hennepin County Attorney, Susan Gaertner in her Official Capacity as Ramsey County Attorney, and Mark Richie in his official capacity as Secretary of State, Defendants.	Court File No. 10-CV-4401 JNE/SRN **DECLARATION OF JEFF DAVIS** FILED 10/29/10

DECLARATION

I, Jeff Davis, declare and make the following statement:

1. I am an eligible and registered voter in Minnesota and will vote in Ramsey County.

2. I own and will wear a button that states "Please I.D. Me" "Election Integrity Watch" on Election Day, November 2, 2010, in my respective polling place when I cast my vote in Ramsey County. I also intend to wear this button in future elections.

3. The "Please I.D. Me" button was a creation of Election Integrity Watch. It states "PLEASE ID ME;" that provides a telephone number "877.602.WATCH;" that provides a website address "ELECTIONINTEGRITYWATCH.COM;" and has a back ground picture of a drawn human eye similar to that found on the back of a dollar bill.

4. I did not expect the government would prohibit the "Please I.D. Me" button from the polling place.

5. I believe the "Please I.D. Me" button is an expression of my right to free speech or association with the Election Integrity Watch coalition and its member associations.

6. Because I have no intention to remove or cover-up the "Please I.D. Me" button when I arrive at my polling place, either an election judge or another poll worker will prohibit my ability to vote, therefore depriving me of that protected right.

7. I believe there is nothing in the wearing of the "Please I.D. Me" button that endorses (or proposes the defeat) a specific candidate or ballot

question and I do not believe the button qualifies as prohibited campaign materials in the polling place as defined by state law.

8. In preparation for the 2010 election, Minnesota Majority, Minnesota Voters Alliance and the Minnesota Northstar Tea Party Patriots formed a coalition referred to as "Election Integrity Watch," a concerned grass roots effort to protect election integrity.

9. As a Director of Minnesota Majority I am familiar with the two other organizations that comprise Election Integrity Watch. None of the organizations are political parties. None of the organizations endorse candidates.

10. Minnesota Majority is not a political organization.

11. Minnesota Majority does not endorse candidates. Furthermore, it takes no position to promote or to defeat ballot questions.

12. The "Please ID Me" button is a creation of the coalition Election Integrity Watch.

13. Because the coalition Election Integrity Watch is concerned with election integrity, it has developed a program for individuals, if they so desire, to act as poll watchers on Election Day, November 2, 2010. They have been trained not to go near voters who are voting, to talk to voters, or to otherwise to intervene with the voting process of an individual in any way. See attached Exhibits.

14. Furthermore, they have been instructed to remain outside polling places unless when voting

themselves or if otherwise authorized to be in the polling place.

15. They have been instructed to observe the election process only.

16. Election Integrity Watch has disseminated its button and requested its separate organizational members and supporters to wear the "Please I.D. Me" button on the forthcoming Election Day, November 2, 2010, in their respective polling places as they prepare to vote even if not acting as a poll watcher.

17. There is no ballot question for Minnesota voters to vote upon regarding voter identification or other voter identification issues.

18. There is no political campaign related to voter identification.

19. There is nothing on the button that indicates the support of or encourages the vote for a particular candidate for elected office.

20. Plaintiff Minnesota Majority has engaged in scrutinizing election processes since prior to the 2008 election.

21. Inclusive of its studies of election processes, Minnesota Majority has examined public records regarding specific issues such as non-eligible voters—non-citizens or non-eligible felons for instance—who may have voted during the election of 2008.

22. In 2009 and most recently in 2010, the Secretary of State, Hennepin County, and Ramsey County officials have resisted attempts by Minnesota Majority to protest alleged improper procedures by the

Secretary of State, or to obtain public records to examine and produce studies relating to for instance, non-citizens.

23. Most recently, Minnesota Majority made efforts to obtain the records of the Minnesota Department of Public Safety through Minnesota Government Data Practices Act requests and sought assistance through the Secretary of State's Office for the retrieval of what I deem as public information. All efforts have been unsuccessful and Minnesota Majority is contemplating legal action—as allowed under the Data Practices Act—those particular documents.

24. The Secretary of State, after the filing of the Minnesota Majority's Petition before the Minnesota Supreme in 2009 regarding inaccuracies relating to the Statewide Voter Registration System, admitted that more ballots were cast than voters counted for in the thousands, and as of this date the Secretary of State has not publicly pronounced a full reconciliation of those discrepancies.

25. On October 26, 2010, Hennepin County Attorney Mike Freeman announced that he would prohibit buttons such as "Please ID Me" from the polling place. He stated that the button was a campaign button and if worn in the polling place it would be against state law.

26. Hennepin County Election Manager Rachel Smith has stated to me during an inquiry after the Freeman pronouncement that she considers her office obligated to follow the dictates of the Hennepin County Attorney's pronouncement on the prohibition

of "Please I.D. Me" buttons in Hennepin County election polling places on November 2, 2010.

27. I am also aware that they can be prosecuted under Minn. Stat. § 21 lB.11 as it relates to Mr. Freeman's pronouncement that wearing of the "Please I.D. Me" button is a violation of state law.

28. As a result, I am fearful that I could be prosecuted for wearing the "Please ID Me" button as an expression of speech and my association with Election Integrity Watch.

29. I am concerned that if I do not relinquish the display of my "Please ID Me" button either through removing it or covering it I will be prevented from voting.

30. Finally, I am aware of the Common Cause filing of it Office of Administrative Hearings complaint against Minnesota Majority and Minnesota Voters Alliance—both part of Election Integrity Watch. In the Common Cause complaint, the wearing of the "Please I.D. Me" button in the polling place is also alleged to be illegal.

I declare under penalty of perjury under the laws of the United States of America that the forgoing is true and correct.

Dated: October 29, 2010

s/ Jeff Davis
Jeff Davis

FILED 10/29/10

VIOLATIONS OF CHAPTER 211B

Violations of Chapter 211B may entail criminal penalties. A conviction on criminal charges for violating its provisions may forfeit a winner's nomination or election. In addition to these penalties, the violator, if that individual has won the election, is prohibited from being appointed to the office sought during the term of the office with respect to which the election was held.

M.S. 211B.32 provides that a complaint alleging a violation of Chapter 211A or 211B must be filed with the Office of Administrative Hearings. The complaint must be finally disposed of by the Office of Administrative Hearings before the alleged violation may be prosecuted by a county attorney.

Penalties. In its disposition of the complaint, the Office of Administrative Hearings may impose a civil penalty of up to $5,000 for any violation of Chapter 211A or 211B. In addition, the complaint may be referred to the appropriate county attorney for criminal prosecution as a misdemeanor or felony, however the law provides.

Furthermore, the person convicted may forfeit the nomination or office. *M.S. 211B.17, subd. 1.* The convicted person may not be appointed to fill a vacancy in the office for which election was sought and is not qualified to fill a vacancy in any office for which the legislature may establish qualifications under *Minn. Const. art XII.3. M.S. 211B.17.*

The prohibition on holding office does not limit the ability of each house of the legislature to judge the election returns and eligibility of its own members.

Circumstances where nomination or election not forfeited. *M.S. 211B.17, subd. 2* sets forth certain situations in which the nomination or election of the candidate shall not be set aside as a penalty for violating Chapter 211B.

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Minnesota Majority, Minnesota Voters Alliance, Minnesota Northstar Tea Party Patriots, Election Integrity Watch; Susan Jeffers, individually and as an election judge; Dorothy Fleming, Jeff Davis, Dan McGrath, Eugene F. Delaune II, and Randy Liebo,

Plaintiffs,

vs.

Joe Mansky, in his official capacity as the Elections Manager for Ramsey County, Rachel M. Smith, in her official capacity as the Elections Manager for Hennepin County, Mike Freeman in his official capacity as Hennepin County Attorney, Susan Gaertner in her official capacity as Ramsey County Attorney, and Mark Richie in his official capacity as Secretary of State,

Defendants.

Court File No.
10-CV-4401
JNE/SRN

AFFIDAVIT OF JOSEPH MANSKY

FILED 11/01/10

I, Joseph Mansky, after being sworn upon oath state as follows:

1. I am currently employed as the Elections Manager for Ramsey County. I have been in my current position since 2002.

2. I have instructed election judges who work for Ramsey County not to wear any shirt, hat, button, badge or insignia while they are working as an Election Judge to ensure that the voters do not have the impression that Ramsey County supports any political position or candidate on the ballot.

3. I have informed election judges who work for Ramsey County to ask individuals who are in the polling place or within 100 feet of the polling place to cover any item of clothing or button which is a political shirt, hat, button, badge or insignia.

4. If an individual within a polling place or within 100 feet of the polling place brings to the attention of an election judge that someone is wearing a political shirt, hat, button, badge or insignia, the Election Judges have been instructed to request the individual to cover the political shirt, hat, button, badge or insignia.

5. All election judges have been informed that they are not to turn away any individual from voting who is wearing a political shirt, hat, button, badge or insignia if the individual refuses to cover up the political shirt, hat, button, badge or insignia.

6. If an individual refuses to cover up the political shirt, hat, button, badge or insignia that they are wearing, election judges have been instructed to forward the name, address and information concerning what the individual was wearing to my attention for possible referral to the Minnesota Office of Administrative Hearings.

7. Election Judges have been informed that they are only to call local law enforcement officials to restore order in the polling place in the event that someone in the polling place has become unruly and disruptive to the point that they are interfering with the ability of other individuals being able to vote.

8. Attached as Exhibit A is the memo from my office that will be forwarded to all Election Judges.

9. I drafted Exhibit A in response to questions that I received during election judge training primarily concerning Tea Party Shirts and the Election Integrity Watch buttons. I have reviewed the affidavit of Ms. Sue Jeffers in which she describes a conversation between us in which I indicated that if there was an initiative concerning the building of a sports stadium for the Minnesota Vikings that I would instruct election judges to ask individuals wearing Minnesota Vikings paraphernalia to cover up the Vikings paraphernalia that they were wearing. I may have used other examples in my conversations with individuals during election judge training.

10. The intention of the policy is to maximize voter participation and minimize, if not eliminate all, disruption of the polling place while having a content neutral policy.

11. On average, an individual typically spends less than 10 minutes in the polling place waiting to vote and voting.

12. I am unaware of prior complaints concerning actions of election judges in Ramsey County in asking individuals to cover up a political shirt, hat, button, badge or insignia.

13. I am unaware of Ramsey County being served with an Office of Administrative Hearings Complaint concerning our proposed policy.

14. I have not been personally served with an Office of Administrative Hearings Complaint concerning our proposed policy.

15. I understand from the Office of the Ramsey County Attorney that Plaintiffs in the above action seek to act as "poll watchers." There is no provision under Minnesota law to allow individuals to serve as "poll watchers." Minn. Stat. § 204C.06 is clear that "no one except an election official or an individual who is waiting to register or to vote or an individual who is conducting exit polling shall stand within 100 feet of the building in which a polling place is located."

16. Minn. Stat. § 204C.07 provides that major political parties in a partisan election may designate one challenger for each precinct from each major political party to serve as a challenger. Election judges, pursuant to Minnesota law, shall permit challengers to be present in the polling place during the hours of voting and to remain there until the votes are counted and the results declared.

17. I am unaware of any complaint concerning the designation of challengers under Minn. Stat. § 204C.07.

18. In reviewing the materials submitted by plaintiffs I understand that they contend that requesting voter identification of potential voters is not a political issue tied to a political candidate or political party on the November 2, 2010 ballot. I do not believe that the position advocated by the plaintiffs is

accurate and it is reasonable for election officials to conclude otherwise.

19. Representative Tom Emmer is the Republican Party nominee for governor and is on the ballot on November 2. One of Candidate Emmer's campaign issues is the enactment of a voter ID law. In fact, in the 2009-2010 legislative session, Mr. Emmer was the chief House author of HF 57, a bill to require photo identification before receiving a ballot. HF 57 was the first bill Mr. Emmer introduced during the past legislative session. Mr. Emmer is clearly associated with this political issue. HF 57 has 26 Republican authors, fully 55% of the membership of the House Republican caucus. There are no DFL authors on this bill.

20. The February 9, 2009 vote in the House State and Local Government Operations committee on HF 57 was 8 in favor, 11 against. 7 of the 8 votes in favor were cast by Republican members of the committee, including Rep Emmer. All 11 votes in opposition were cast by DFL members of the committee.

21. Gubernatorial Candidate Emmer's website lists "Elections" as one of the principal issues in his campaign. The information on Gubernatorial Candidate Emmer's website states in part:

> Photo identification is the number-one election integrity reform. Lack of a photo identification requirement erodes public confidence in our elections. In its absence, individual voters are left to question the value of their votes among others that may be fraudulent.

. . .

> Voter identification and verification laws protect the integrity of our elections and the foundation of our representative form of government. In addition to supporting a photo ID requirement, I will also work to eliminate vouching and reform absentee voting to not only guarantee integrity but to also ensure our men and women serving overseas—those protecting our electoral freedom in the first place—are able to participate.

22. Representative Dan Severson is the Republican Party nominee for secretary of state and is on the ballot on November 2. His principal campaign issue for that office is the enactment of a law to require photo identification before receiving a ballot. Rep. Severson is clearly associated with this political issue. Mr. Severson was in fact a co-author of Rep Emmer's photo ID bill, HF 57.

23. Secretary of State Candidate Severson's website lists Voter ID as the top issue of his campaign. The information on Secretary of State Candidate Severson's website states in part:

> First and most importantly implement Photo ID.
>
> . . . Photo ID modernizes and streamlines the process, in the long term costing less, and provides us all the confidence to know that our votes are counted fairly without being diluted by people who may try to game the system. With Minnesota's lax election system, it

> is very difficult to determine the validity of an election after the fact and nearly impossible to identify who is responsible even when errors or abuse are detected. The solution is to verify first with photo ID.

24. In objectively looking at the above information, I believe that it is reasonable to conclude that photo ID is nothing more than a surrogate for the political positions of the Republican and DFL parties, for and against, and the campaign positions of two candidates on the ballot on November 2, Mr. Emmer and Mr. Severson.

25. The issue of photo identification for voting is a highly charged political proposal and is a matter of considerable political controversy, not just in Minnesota but across the country. It was the subject of party-line votes in the Georgia and Indiana legislatures and considerable litigation in both states, reaching the US Supreme Court (Georgia) and the state supreme court (Indiana) in the process.

26. The following information was taken from The Ohio State University Moritz Law School web site:

> "Unsurprisingly, Indiana's photo identification law passed on a strict party-line vote; not a single Republican opposed the measure, not a single Democrat supported it, and the measure was signed by a Republican governor. The amicus brief of historians and other scholars provides an interesting national perspective on the partisan divide,

> noting that Indiana's law was one of at least ten photo identification bills introduced by Republicans in state legislatures between 2005 and 2007 and that if the legislative votes for all these bills is combined, 95.3 percent of the 1,222 Republicans voting supported the bills while just 2.1 percent of the 796 Democrats voting supported the bills. A partisan divide indeed."

27. In reviewing the materials submitted by plaintiffs I understand that they contend that the "Tea Party" is not affiliated with any political candidate or political party on the November 2, 2010 ballot. I do not believe that the position advocated by the plaintiffs is accurate and that it is reasonable for election officials to conclude otherwise.

28. There is a Tea Party Caucus in the United States Congress. The Tea Party Caucus is chaired by Representative Michele Bachmann, from Stillwater. As of August 2, all 49 members of the caucus were Republicans. Representative Bachman has raised and contributed funds to Tea Party congressional candidates throughout the United States.

29. 2008 Republican Vice-Presidential Candidate Sarah Palin on October 19 began a 19 state tour across the country to meet with Tea Party groups to advocate for Tea Party members to get out the vote to unseat certain political candidates and to vote for certain candidates. Mrs. Palin has suggested to numerous Tea Party groups on several occasions that she is interested in running for the office of the President in 2012.

Dated: November 1, 2010 s/ Joseph Mansky
Joseph Mansky

Subscribed and sworn to before me
this 1st day of Nov, 2010

s/ DeMaree Braun
Notary Public

NOTARY PUBLIC SEAL

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Court File No. 10-CV-4401 JNE/SRN

Minnesota Majority, Minnesota Voters Alliance, Minnesota North Star Tea Party Patriots, Election Integrity Watch, Susan Jeffers, individually and as an election judge, Dorothy Fleming, Jeff Davis, Dan McGrath and Andy Cilek, Plaintiffs, vs. Joe Mansky in his individual and official capacity as the Elections Manager for Ramsey County, Rachel M. Smith in her individual and official capacity as the Elections Manager for Hennepin County, Mike Freeman in his individual and official capacity as Hennepin County Attorney, Susan Gaertner in her individual and official capacity as Ramsey County Attorney, and Mark Richie in his individual and official capacity as Secretary of State, Defendants.	**FIRST AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF** **JURY TRIAL DEMANDED** FILED 11/18/10

The Plaintiffs state for their First Amended Complaint as follows:

INTRODUCTION

1. This is an action for declaratory and injunctive relief against various state officials who prevented eligible voters from wearing buttons or clothing that did not endorse candidates or ballot questions in polling places on election day. The prohibition and threat of prosecution by state officials violated the First Amendment protections of free speech, association and the right to vote under the United States Constitution; protections of equal protection and due process under the Fourteenth Amendment; as well as the corresponding and applicable provisions of the Minnesota Constitution. Inclusive of the constitutional violations is the Plaintiffs' contention that the governing statute under which the state officials assert their authority—Minn. Stat. § 211B.11—is unconstitutional on its face and as applied.

2. During the November 2, 2010, state officials did invoke policies under Minn. Stat. § 211B.11 that resulted in eligible voters not wearing certain buttons and clothing for fear of prosecution. State officials did discriminate in the inconsistent enforcement of its announced policies. State officials did threaten prosecution. State officials did prevent at least one eligible voter from voting under their announced policies.

3. Declaratory and injunctive relief is necessary to allow eligible voters to peacefully exercise their right to vote within the polling place on election day while exercising their constitutionally

protected rights under the United States and Minnesota Constitutions.

JURISDICTION

4. This Court has jurisdiction under 28 U.S.C. §§ 1331, 1343(1)-(4) and 42 U.S.C. §§ 1983, 1985(2), (3) and § 1988 (civil rights statutes) and the First Amendment of the United States Constitution.

5. This Court is authorized to grant declaratory and injunctive relief under 28 U.S.C. §§ 2201 and 2202, Federal Rules of Civil Procedure 57 and 65, and has general legal and equitable powers.

6. Venue is proper in this Court under 28 U.S.C. § 1391. Plaintiffs further invoke the pendent jurisdiction of this Court to consider claims arising under state law.

PARTIES

Plaintiffs

7. Plaintiff Minnesota Majority is a Minnesota 501(c)(4) nonprofit organization with members formed in the interest of transparency in government, protecting identified values as they interrelate with political issues, including oversight, investigation, and reform concerning election and voter or voter registration irregularities. It is an association of members. Minnesota Majority does not endorse candidates seeking elected or appointed offices.

8. Plaintiff Minnesota Voter Alliance is a Minnesota 501(c)(4) nonprofit organization with members formed with the primary purpose of empowering the electorate, with interests inclusive of the integrity of the election process. It is a non-

partisan, and is not affiliated with any political party or organization. Minnesota Voters Alliance does not endorse candidates seeking elected or appointed offices.

9. Plaintiff North Star Tea Party Patriots is a Minnesota 501(c)(4) nonprofit member organization. It is not a political party. It is a coalition of local associations in Minnesota with a mission to attract, educate, organize, and mobilize citizens to secure public policies consistent with values inclusive of fiscal responsibility, constitutionally limited government and free markets. North Star Tea Party Patriots does not endorse candidates seeking elected or appointed offices.

10. Plaintiff Election Integrity Watch is the coalition of the Plaintiffs Minnesota Majority, Minnesota Voters Alliance, and the Minnesota North Star Tea Party Patriots.

11. Under Minn. Stat. § 200.02, a "political party" means an association of individuals under whose name a candidate files for partisan office. Under this definition, Election Integrity Watch, Minnesota Majority, Minnesota Voters Alliance, and Minnesota North Star Tea Party Patriots are not political parties.

12. Plaintiff Susan Jeffers is an eligible and registered voter in Minnesota, residing at 1720 20th Avenue NW, New Brighton. Ms. Jeffers is an election judge in Ramsey County, Minnesota.

13. Plaintiff Jeff Davis is an eligible and registered voter in Ramsey County, Minnesota.

14. Plaintiff Dorothy Fleming is an eligible and registered voter in Hennepin County, Minnesota.

15. Plaintiff Dan McGrath is an eligible and registered voter in Hennepin County, Minnesota.

16. Plaintiff Andy Cilek is an eligible and registered voter in Hennepin County, Minnesota.

Defendants

17. Defendant Joe Mansky is the Elections Manager for Ramsey County, Minnesota. Mr. Mansky is responsible for the conduct of elections in Ramsey County such as the enforcement of statutory prohibitions on electioneering, including but limited to identifying eligible and ineligible voters, the conduct within polling places as it relates to campaign materials and the training and oversight of Ramsey County election judges.

18. Defendant Rachel M. Smith is the Elections Manager for Hennepin County, Minnesota. Ms. Smith is responsible for the conduct of elections in Hennepin County such as the enforcement of statutory prohibitions on electioneering, including but limited to identifying eligible and ineligible voters, the conduct within polling places as it relates to campaign materials and the training and oversight of Hennepin County election judges.

19. Defendant Mike Freeman is the Hennepin County Attorney. He is responsible for preserving the freedom of speech of citizens and for the enforcement of laws through his office within the County including petty misdemeanors. Mr. Freeman individually and through his office is also responsible for the constitutional enforcement of statutory prohibitions on electioneering.

20. Defendant Susan Gaertner is the Ramsey County Attorney. She is responsible for

preserving the freedom of speech of citizens and for the enforcement of laws through her office within the County including petty misdemeanors. Ms. Gaertner individually and through her office is also responsible for the constitutional enforcement of statutory prohibitions on electioneering.

21. Defendant Mark Richie is the Minnesota Secretary of State. As Secretary of State, Mr. Richie is the statewide election officer responsible for the policies relating to the conduct of elections within the State. Mr. Richie directly communicates with County Election Managers, or their equivalent officials, on election matters inclusive of the conduct within polling places as it relates to election judges or other poll workers.

22. At all times relevant to the allegations of this Complaint, and in all actions described, the defendants acted under color of law and under the authority bestowed upon them as county or state officials.

Constitutional and Statute Provisions at Issue

23. The First Amendment of the United States Constitution states that "Congress shall make no law . . . abridging the freedom of speech, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

24. The Fourteenth Amendment, Section 1 of the United States Constitution states that the State shall not "deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws."

25. Article 1, § 2 of the Minnesota Constitution states that "[n]o member of this state shall be disfranchised or deprived of any of the rights or privileges secured to any citizen thereof . . ." which is protective of a person's right to vote and to equal protection of the laws.

26. Article 1, § 3 of the Minnesota Constitution states that "all persons may freely speak, write, and publish their sentiments on all subjects . . ." which is protective of a person's right to free speech.

27. Article 1, § 7 of the Minnesota Constitution protects a person's right to due process under the law.

28. Minnesota Statute § 211B.11, subd. 1 states that:

> A person may not display campaign material, post signs, ask, solicit, or in any manner try to induce or persuade a voter within a polling place . . . . on primary or election day to vote for or refrain from voting for a candidate or a ballot question . . . A political badge, political button, or other political insignia may not be worn at or about the polling place on primary or election day
>
> * * *
>
> Subd. 4. . . . Violation of this section is a petty misdemeanor.

FACTS

Election Integrity Watch "Please I.D. Me" buttons are not political and are not associated with any Minnesota political election campaign.

29. In preparation for the 2010 election, Plaintiffs Minnesota Majority, Minnesota Voters Alliance and the Minnesota North Star Tea Party Patriots formed a coalition referred to as "Election Integrity Watch."

30. Election Integrity Watch is not a political party under Minn. Stat. § 200.02 which states that a "political party" means an association of individuals under whose name a candidate files for partisan office.

31. Election Integrity Watch is a concerned grass roots effort to protect election integrity.

32. Election Integrity Watch instructed individuals to observe the election process only and not to interfere with any person's attempt to register to vote, or vote on election day, November 2, 2010.

33. The Election Integrity Watch created a button that states "PLEASE I.D. ME." (See Exhibit A).

34. The Election Integrity Watch button also provides a telephone number —"877.602.WATCH."

35. The Election Integrity Watch button also provides a website "ELECTIONINTEGRITYWATCH.COM."

36. The Election Integrity Watch also has as a background for the previously referenced wording and number, a design that appears as a human eye—similar to that found on the back of the U.S. dollar bill.

37. Election Integrity Watch has disseminated its button and instructed its separate organizational members and supporters to wear the "Please I.D. Me" button on election day, November 2, 2010, in their respective polling places.

38. There is no ballot question for Minnesota voters to vote upon regarding voter identification or other voter identification issues.

39. There is no political campaign related to voter identification.

40. Election Integrity Watch does not, has not, and did not encourage others to vote for or against a person seeking elective office in the November 2010 election, nor did it nominate, or called for the support of any political candidate as a coalition.

Minnesota North Star Tea Party Patriots offered shirts and hats that are not political endorsements of any candidate and are not associated with any Minnesota political election campaign.

41. Plaintiff Minnesota North Star Tea Party Patriots (North Star Patriots) is not a political party under Minn. Stat. § 200.02 which states that a "political party" means an association of individuals under whose name a candidate files for partisan office.

42. The North Star Patriots does not endorse candidates for elected office.

43. None of the associations associated with the North Star Patriots endorse candidates for elected office.

44. North Star Patriots did not endorse, promote, or encourage others to vote for or against a

particular candidate for elected office on November 2, 2010.

45. Plaintiff North Star Patriots offers to the public shirts and hats that reflect the values of the organization inclusive of subjects such as fiscal responsibility, constitutionally limited government and free markets.

46. The North Star Patriots shirts offered have statements, phrases, or slogans such as "Don't tread on me," "Liberty," We'll Remember in November," "Fiscal Responsibility, Limited Government, Free Markets" or a drawing of a shield.

47. Each shirt or hat includes the logo "Tea Party Patriots." (See Exhibit B).

48. There is nothing in any particular shirt or that phrase or slogan that endorses, causes confusion, undue influence, or is in any other way related to a political campaign in the November 2010 election.

49. Each slogan is reflective of the wearer's association with a particular group that does not endorse candidates or ballot questions.

Ramsey County Election Manager, Joe Manksy, determined and instructed that Election Integrity Watch "Please I.D. Me" buttons and "Tea Party" messages of any kind would not be allowed in polling places.

50. Plaintiff Sue Jeffers is a Ramsey County Election Judge.

51. Ms. Jeffers contacted Joe Mansky, Ramsey County Election Director regarding certain rumors relating to Election Integrity Watch "Please

I.D. Me" buttons and North Star Patriots shirts on October 19, 2010.

52. Mr. Mansky stated to Ms. Jeffers that Election Integrity Watch "Please I.D. Me" buttons would be prohibited in Ramsey County polling places.

53. Mr. Mansky stated to Ms. Jeffers that "Tea Party Patriots" messages of any kind—even if they did not support or oppose a candidate, or an issue on the ballot—worn by any person, would be prohibited in Ramsey County polling place.

54. Ms. Jeffers was "shocked" at the prohibition Mr. Mansky promulgated regarding the "Please I.D. Me" buttons and "Tea Party Patriots" shirts.

55. As an election judge, Ms. Jeffers will be responsible for enforcing the Ramsey County policy of prohibiting a person in the polling place that is wearing either a "Please I.D. Me" button or a "Tea Party Patriots" shirt.

56. As an election judge, Ms. Jeffers disagrees with Mr. Mansky's policy decision of prohibiting people who are wearing "Please I.D. Me" buttons or "Tea Party Patriots" shirts from the polling place as contrary to voting rights, free speech and association principles.

Consistent with Mansky's specific comments to Ms. Jeffers regarding the specific button of "Election Integrity Watch" and clothing of Tea Party Patriots, he instructed election judges to have individuals cover "political" clothing or buttons and if they did not that person may be subject to possible prosecution.

57. Mr. Mansky informed election judges, prior to November 2, 2010, that they were to ask individuals found in the polling place or within 100 feet the polling place to cover any item of clothing or button that is a "political shirt, hat, button, badge or insignia" particularly the "Please I.D. Me" button or Tea Party Patriots clothing.

58. Mr. Mansky further instructed Ramsey County election judges that if the individual did not cover up the "political shirt, hat, button, badge or insignia" the election judges were to take the person's name, address, and information for possible referral for prosecution, particularly those wearing "Please I.D. Me" buttons or Tea Party Patriots clothing.

59. Mr. Mansky stated no person would be turned away from voting even if that person failed to cover up his or her "political shirt, hat, button, badge or insignia" particularly those wearing "Please I.D. Me" buttons or Tea Party Patriots clothing.

Hennepin County adopted similar procedures as the Ramsey County Elections Manager and had that information conveyed to its county election judges that they prohibit the wearing of "Please I.D. Me" buttons in polling places as directed by County Attorney Mike Freeman.

60. Upon information and belief, Hennepin County Election Manager Rachel Smith adopted the procedures as delineated by Mr. Mansky and informed the Hennepin County Election judges of the procedures inclusive of requesting a person to cover up any "political shirt, hat, button, badge or insignia" if that person is found within 100 feet of the polling place or in the polling place and if not covered to

obtain that person's name, address, and other information for possible prosecution.

Hennepin County officials, such as County Attorney Mike Freeman, in anticipation of the November 2010 election considered the prohibition and warned of prosecution for wearing "Please I.D. Me" buttons in polling places.

61. Prior to the actions of Hennepin County's adoption of Ramsey County procedures regarding "political shirt, hat, button, badge or insignia" for the November 2, 2010 election, Hennepin County Attorney Mike Freeman also publicly stated that poll watchers wearing buttons asking for their I.D. (identification) "won't be allow[ed] in polling stations." Mr. Freeman equated the Election Integrity Watch "Please I.D. Me." Buttons as campaign buttons stating, "You can't wear campaign buttons in a polling place, state law says you can't."

62. Hennepin County Election Manager Rachel Smith has stated that she considers her office obligated to follow the dictates of the Hennepin County Attorney's pronouncement on the prohibition of "Please I.D. Me" buttons in Hennepin County election polling places on November 2, 2010.

The Secretary of State as Minnesota's chief election officer adopted similar procedures as the Ramsey County Elections Manager and had that information conveyed to all other Minnesota county election managers.

63. Upon information and belief, the Secretary of State adopted similar procedures as outlined by the Ramsey County Elections Manager,

Mr. Mansky, and conveyed that information through other County Election Managers to their respective election judges.

64. Upon information and belief, the Secretary of State Mark Richie, as Minnesota's chief election officer responsible for the integrity and conduct of elections throughout the state, is the final arbiter of instructions and directions provided to election managers, or their equivalent officials, regarding the interpretation and application of elections laws within polling places.

65. Upon information and belief, the Secretary of State endorses and will uphold the decision of county election managers to prohibit individuals from wearing "Please I.D. Me" buttons or "Tea Party" shirts as previously identified in this Complaint.

66. The stated policy adopted by each defendant reflected the threat or imminent commencement of prosecution for wearing a "Please I.D. Me" button or Tea Party Patriot clothing.

Election Judges did not consistently enforce the stated defendants' policies and experienced no reported disturbance or incident relating to a person wearing either a "Please I.D. Me" button or Tea Party Patriot clothing.

67. On November 2, 2010 within Hennepin County, in places serving as a polling place, some election judges allowed individuals to wear the message of the Election Integrity Watch—"Please I.D. Me." No election judge stopped or questioned the wearing of the button in those polling places. No incident resulted or disturbance of any kind to other

voters in the polling place occurred because of the wearing of the button.

68. The Sierra Club does endorse political candidates seeking elective office. The Sierra Club did endorse candidates that appeared on the November 2, 2010 election ballot.

69. On November 2, 2010, election judges did allow individuals wearing a Sierra Club button to vote without requesting that person or persons to cover up the button as a "political shirt, hat, button, badge or insignia" within 100 feet of the polling place or in the polling place, and did not obtain that person's name, address, and other information for possible prosecution.

70. Minnesota Common Cause is a non-profit corporation that is dedicated to improving the way state government operates. It supports and lobbys for legislation for the reform of the election process.

71. On November 2, 2010, eligible voters wore Common Cause buttons into the polling place. Election judges did not require the eligible voters to cover or remove the Common Cause buttons before voting.

72. On November 2, 2010, eligible voters associated with Election Integrity Watch and Minnesota Tea Party Patriots desired to wear either a "Please I.D. Me" button or Tea Party Patriot clothing, but knowing the stated policy of county and state officials regarding the wearing of such non-political items of possible prosecution, chose not to wear their respective desired "Please I.D. Me" button or Tea Party Patriot clothing for fear of prosecution.

73. On November 2, 2010, after an eligible voter entered a polling place wearing a Tea Party Patriot shirt, registered to vote, without incident or warning to cover the shirt, started to complete his ballot. During the voting process, before his ballot was completed, an election judge interrupted the voter and requested him to cover his shirt and then warned him that if he did not he could be subject to prosecution.

74. On November 2, 2010, Plaintiff Andy Cilek entered a polling place in Hennepin County, wearing a "Please I.D. Me" button and a Tea Party Patriot shirt. At the registration table, the election judges refused to allow Mr. Cilek to vote because he was wearing a "Please I.D. Me" button and a Tea Party Patriot shirt. Mr. Cilek was told he could not vote unless he removed the button and shirt.

75. Later, Plaintiff Andy Cilek returned a second time, attempted to register to vote, but again the election judges refused to allow Mr. Cilek to vote because he wore a "Please I.D. Me" button and a Tea Party Patriot shirt.

Plaintiff Jeff Davis feared prosecution for expressing his rights of freedom of speech and association for wearing a non-campaign button on election day and did not wear the button while voting.

76. Plaintiff Jeff Davis is an eligible voter residing in Ramsey County and is an advocate of and is associated with the Election Integrity Watch effort. He has a "Please I.D. Me" button, and planned to wear the button into the polling place on November 2, 2010.

77. On November 2, 2010, knowing the stated policy of county and state officials regarding the wearing of the "Please I.D. Me" button and possible prosecution, chose not to wear it for fear of imminent prosecution by Ramsey County officials.

78. Mr. Davis views the "Please I.D. Me" button as an expression of free speech and his association with the grass roots coalition of Election Integrity Watch.

Plaintiff Jeff Davis further fears prosecution for expressing his rights of freedom of speech and association for wearing a non-campaign shirt on election day.

79. Plaintiff Jeff Davis is an eligible voter residing in Ramsey County. He is an advocate of the North Star Patriots effort. He has a Tea Party Patriots shirt and planned on wearing it into the polling place on November 2, 2010.

80. Mr. Davis views the "Tea Party Patriots" shirt as an expression of free speech that does not support any Minnesota political campaign ballot question or candidate.

81. Mr. Davis further views the "Tea Party Patriots" shirt as an expression of his association with the Minnesota North Star Tea Party Patriots coalition to demand governmental integrity.

82. On November 2, 2010, knowing the stated policy of county and state officials regarding the wearing of the "Please I.D. Me" button and possible prosecution, chose not to wear it for fear of prosecution by county officials.

Plaintiff Dan McGrath fears prosecution for expressing his right of freedom of speech and association for wearing a non-political campaign button on election day.

83. Plaintiff Dan McGrath voted on November 2, 2010. He wore a "Please I.D. Me" button.

84. An election judge asked Mr. McGrath to cover the button and he refused. The election judge obtained his name and address from the registration roster.

85. Mr. McGrath view the "Please I.D. Me" button as an expression of free speech that does not support any Minnesota political campaign ballot question or candidate.

86. Mr. McGrath further views the "Please I.D. Me" button as an expression of his association with the grass roots coalition of Election Integrity Watch.

87. Mr. McGrath was aware of the pronouncements of Defendants Ramsey County Election Manager Joe Mansky, and the adoption of that policy by Hennepin County Attorney not to allow "Please I.D. Me" buttons in polling places—viewing them as campaign political buttons.

88. Mr. McGrath was also aware that he can be prosecuted under Minn. Stat. § 211B.11 as it relates to the adopted policy of Hennepin County that wearing of the "Please I.D. Me" button is a violation of state law. As a result, he does fear prosecution for his expression of speech and association with Election Integrity Watch for wearing the button "Please I.D. Me."

Plaintiff Dorothy Fleming was not stopped by election judges nor told to cover or remove her "Please I.D. Me" button.

89. Plaintiff Dorothy Fleming is an eligible voter residing in Hennepin County and is an advocate of the Election Integrity Watch effort. She has a "Please I.D. Me" button, planned on wearing it, and did wear the button into the polling place on November 2, 2010.

90. Ms. Fleming views the "Please I.D. Me" button as an expression of free speech that does not support any Minnesota political campaign ballot question or candidate.

91. Ms. Fleming further views the "Please I.D. Me" button as an expression of their association with the grass roots coalition of Election Integrity Watch.

92. Ms. Fleming was aware of the pronouncements of adoption by Hennepin County of the Ramsey County's policy regarding a person wearing a "Please I.D. Me" button into the polling place—viewing them as campa[illegible] buttons.

93. Ms. Fleming was also aware that she could be prosecuted under Minn. Stat. § 211B.11 and that if she did not cover or remove the button, her name would be taken, and address given to County officials for possible prosecution. As a result, she did fear prosecution for her expression of speech and her association with Election Integrity Watch for wearing the button "Please I.D. Me."

94. Ms. Fleming was not stopped by an election judge in her polling place on November 2, 2010.

95. Ms. Fleming voted on November 2, 2010.

96. No delay occurred in the voting process, nor did any disturbance occur as she wore her "Please I.D. Me." button, signed in to vote, and ultimately voted.

COUNT I

Violation of the First Amendment of the United States Constitution and Threats to the Plaintiffs' Rights of Freedom of Speech, Association, and the Right to Vote.

97. The Plaintiffs adopt and incorporate by reference paragraphs 1 through 96 as if fully stated.

98. The First Amendment of the United States Constitution guarantees individuals the right to free speech, association, and the right to vote.

99. The Minnesota Constitution also protects a person's right to free speech and association, and the right to vote.

100. The Defendants either intentionally, recklessly, or with callous indifference to the federally protected rights of the Plaintiffs have threatened, silenced, or chilled their rights to freedom of speech and association by the improper adoption of policies prohibiting the wearing of non-campaign "Please I.D. Me" buttons of the Election Integrity Watch, or shirts (or hats) expressing certain slogans, phrases, or statements offered by the Minnesota North Star Tea Party Patriots.

101. Neither the "Please I.D. Me" buttons nor the "Tea Party Patriots" shirts attempt to persuade or influence voters to vote for or against any particular

candidate, ballot question, or political part in the November 2, 2010 election.

102. The Defendants' policies caused irreparable harm to the federal and state protected rights of the Plaintiffs' freedom of speech, association and the right to vote in the attempt to harass, threaten, silence, and chill these constitutional rights by directing election judges, poll workers, or others responsible for the conduct of elections and voters in polling places to interfere with the Plaintiffs' presence in or around polling places.

103. Furthermore, the imminent threat of prosecution, as a policy endorsed and adopted by the Defendants, caused certain Plaintiffs not to wear either their "Please I.D. Me" button or Tea Party Patriots clothing or both, thereby chilling their protected right of speech and association.

104. The Defendants have further failed to properly educate, train, and instruct election judges, poll workers, or others responsible for the conduct of elections and voters in polling places in the proper enforcement of election laws, namely Minn. Stat. § 211B.11, in a manner to avoid the threatened intentional, reckless, or callous indifference to the Plaintiffs' federally protected rights of freedom of speech and association, and the right to vote.

105. Further, the enforcement of the Defendants' directives threatened and did deprive the Plaintiff Andy Cilek's right to vote without due process of law for over five hours.

106. An actual live controversy exists between the Plaintiffs and the Defendants in which the parties have genuine and opposing interests that

are direct and substantial and of which a judicial determination will be final and conclusive.

107. Plaintiffs request this Court to issue declaratory and injunctive relief under 42 U.S.C. § 1983 to cease and prevent the Defendants' conduct of intentional, reckless, and oppressive disregard of Plaintiffs' First Amendment rights, and further award appropriate monetary damages against the Defendants, with the exception of the Secretary of State, inclusive of costs, attorney fees, and any other relief as this Court deems justified.

COUNT II

Due Process Claims against the Defendants for violating the Due Process Clause of the Fourteenth Amendment of the United States Constitution and the Minnesota Constitution.

108. Plaintiffs adopt and incorporate by reference paragraphs 1 through 107 as if fully stated.

109. Plaintiffs have a Fourteenth Amendment right to Due Process of law before the government deprives him or her of life, liberty, or property, a protection also afforded citizens under the provisions of the Minnesota Constitution.

110. Plaintiffs have protectable liberty interests—fundamental rights—in free speech and association under the First Amendment, due process of law under the Fourteenth Amendment, and the right to vote, and similar protections afforded under the Minnesota Constitution.

111. The Defendants, either by discriminatory motive or intent, or through reckless or callous indifference to the Plaintiffs' federally and

state protected rights announced and implemented a policy that exercises a standardless discretion over what expressive conduct is characterized as electioneering, leaving them free to censor ideas and enforce their own personal preferences.

112. The Defendants failed to develop objective standards to ensure that citizens such as the Plaintiffs were not disenfranchised, harassed, or otherwise deprived of constitutional rights without due process of law.

113. The threat was imminent and did occur, that the conduct of the Defendants deprived the Plaintiffs of due process of law under the laws of the United States on November 2, 2010, and the deprivation directly and proximately caused Plaintiffs to suffer the loss of their protected freedoms.

114. Plaintiffs request this Court to issue declaratory and injunctive relief under 42 U.S.C. § 1983 to cease and prevent the Defendants' conduct of intentional, reckless, and oppressive disregard of Plaintiffs' due process rights, and further award appropriate monetary damages against the Defendants, with the exception of the Secretary of State, inclusive of costs, attorney fees, and any other relief as this Court deems justified.

COUNT III

Equal Protection Claim against the Defendants

115. The Plaintiffs adopt and incorporate by reference paragraphs 1 through 114 as if fully stated.

116. Plaintiffs' Fourteenth Amendment right to equal protection under the law protects them from intentional and arbitrary discrimination and similar

protections are afforded to citizens under the Minnesota Constitution.

117. The Defendants admit that they adopted a policy that prohibited the wearing of Election Integrity Watch "Please I.D. Me" buttons and Tea Party Patriots clothing at the polling place and did not enforce or otherwise apply a similar policy to other groups.

118. The Defendants by discriminatory motive or intent, or through reckless or callous indifference, announced an implemented a policy to intentionally discriminate against the Plaintiffs by using electioneering laws to impose barriers that thwart and did thwart the exercise of the Plaintiffs constitutional rights based on their association with either the Election Integrity Watch or the Minnesota North Star Tea Party Patriots organizations.

119. In addition, the standardless discretion resulted in the inconsistent enforcement of the Defendants' policies regarding the wearing of "Please I.D. Me" buttons or Tea Party Patriots clothing that caused violations of the equal protection of the laws afforded to the Plaintiffs under the Federal and State Constitutions.

120. The threat was imminent and did occur that Defendants' actions deprived the Plaintiffs of equal protection under the laws of the United States Constitution at the polling places on November 2, 2010.

121. Plaintiffs request this Court to issue declaratory and injunctive relief under 42 U.S.C. § 1983 to cease and prevent the Defendants' conduct of intentional, reckless, and oppressive disregard of

Plaintiffs' Equal Protection rights, and further award appropriate monetary damages against the Defendants, with the exception of the Secretary of State, inclusive of costs, attorney fees, and any other relief as this Court deems justified.

COUNT IV

Minn. Stat. § 211B.11 is Constitutionally Invalid Under the United States and Minnesota Constitutions.

122. The Plaintiffs adopt and incorporate by reference paragraphs 1 through 121 as if fully stated.

123. Minnesota Statue 211B.11, subd. 1 states that

> A person may not display campaign material, post signs, ask, solicit, or in any manner try to induce or persuade a voter within a polling place . . . . on primary or election day to vote for or refrain from voting for a candidate or a ballot question . . . A political badge, political button, or other political insignia may not be worn at or about the polling place on primary or election day
>
> * * *
>
> Subd. 4. . . . Violation of this section is a petty misdemeanor.

124. Plaintiffs Minnesota Majority, Minnesota Voters Alliance, and Minnesota North Star Tea Party Patriots have formed a coalition identified as the Election Integrity Watch.

125. Election Integrity Watch is not a political party and does not endorse candidates for elected office or promote or seek to defeat ballot questions.

126. Election Integrity Watch creates and distributes Election Integrity Watch "Please I.D. Me" button.

127. The statement Election Integrity Watch/"Please I.D. Me" is not a "political" badge, a "political" button" or a "political" insignia.

128. Meanwhile, the State of Minnesota makes and distributes "I voted" buttons to voters in the polling place.

129. Minnesota Statute 211B contains no definition of "political." Therefore, since Election Integrity Watch is not a political party and does not endorse candidates, support or seek to defeat ballot questions, the word "political" as seen in the context of the facts of this case is facially constitutionally invalid.

130. Minn. Stat. § 211B does define prohibited "campaign materials" and "political purpose." Neither Election Integrity Watch "Please ID Me" buttons nor Tea Party apparel fit those definitions.

131. The adopted polices of the Defendants and the implementation of the policies resulted in the violation of the Plaintiffs' constitutional rights, and as a direct result of the Defendants actions, Minn. Stat. § 211B.11 is unconstitutional as applied. The adopted policies are not viewpoint neutral, are not narrowly tailored to meet a compelling state interest, and are overbroad and vague. The policies impede to threaten to impede federal and state protected rights of

freedom of speech, association, due process, and equal protection the Plaintiffs seek to achieve and practice.

132. Violation of Minn. Stat. § 211B.11 can result in criminal prosecution.

133. Election managers, election judges, poll workers, and any other person responsible with the conduct of the election process in polling places are obligated to follow and enforce the directives of the statute, which has and will result, because of the way it is written, in the unconstitutional prohibition of certain individuals, such as members or supporters of Plaintiff organizations and coalition from wearing non-campaign buttons and clothing into polling places—perhaps even discouraging them from voting which is and would be a violation of their voting rights.

134. As a result, the Plaintiffs request this Court to declare Minn. Stat. § 211B.11 unconstitutional as violative of the First Amendment of the United States Constitution and the Minnesota State Constitution.

JURY DEMAND

135. Plaintiffs demand a jury trial.

REQUEST FOR RELIEF

136. Plaintiffs have no adequate legal, administrative, or other remedy by which to prevent or minimize the continuing and threatened irreparable harm from the Defendants' present and threatened irreparable harm to their constitutional rights.

137. An actual live controversy exists between the Plaintiffs and the Defendants will respect

to upcoming elections in 2011, 2012 and beyond in which the parties have genuine and opposing interests that are direct and substantial and of which a judicial determination will be final and conclusive.

138. The Plaintiffs have a likelihood of success on the merits of their claims.

139. The public interest and equities favor entry of a court order granting the Plaintiffs the following described declaratory relief, as well as temporary, preliminary, and permanent injunctive relief

WHEREFORE, the Plaintiffs prayerfully request that this Court:

A. Declare that the Defendants are acting in violation of the First Amendment of the United States Constitution;

B. Declare that the Defendants violated the Plaintiffs' protected constitutional rights under the Due Process Clause of the Fourteenth Amendment of the United States Constitution;

C. Declare that the Defendants violated the Plaintiffs' protected constitutional rights under the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution;

D. Declare that the Defendants violated the protected rights of free speech as protected under the Minnesota Constitution;

E. Declare that the Defendants violated the protected rights of association as protected under the Minnesota Constitution;

F. Declare that the Defendants violated the protected right to vote under the Minnesota Constitution;

G. Declare the Defendants violated the protected right to due process under the Minnesota Constitution;

H. Declare that the Defendants violated the protected rights of equal protection under the Minnesota Constitution;

I. Declare Minn. Stat. § 211B.11 is unconstitutional as applied under the United States Constitution and the Minnesota Constitution;

J. Enjoin all of the Defendants from the enforcement of policies preventing any citizen from wearing the "Please I.D. Me" button or any "Tea Party Patriots" shirts (or hats) in polling places on November 2, 2010;

K. Award compensatory damages and punitive damages against Defendants with the exception of the Secretary of State if warranted;

L. Award Plaintiffs their reasonable attorney fees, litigation expenses, and costs as allowed under 42 U.S.C. § 1988, and other applicable laws, and grant such other relief as this Court deems just to the Plaintiffs and their attorneys.

MOHRMAN & KAARDAL, P.A.

Dated: November 18, 2009

s/Erick G. Kaardal
Erick G. Kaardal, 229647
33 South Sixth Street, Suite 4100
Minneapolis, Minnesota 55402
Telephone: 612-341-1074
Attorney for Plaintiffs

FILED 01/06/11

Gary Poser

From: Gary Poser

Sent: Monday, November 01, 2010 2:51 PM

To: Gary Poser

Subject: Political Buttons in Polling Place

Follow Up Flag: Follow up

Flag Status: Green

To: County Auditors and Election Administrators:

Fyi—The U.S. District Court today refused to issue a temporary restraining order preventing enforcement of the prohibition of political badges, political buttons, or other political insignia from being worn at or about the polling place as required in M.S. 211B.11. See attached court order. (Note: The complaint filed by Common Cause with the Office of Administrative Hearings was dismissed).

Accordingly, election judges continue to have the authority to decide what is "political" and to ask voters to cover up or remove political material while in the polling place.

If a voter refuses to cover up or remove the materials, **the election judges must permit any eligible voter to receive a ballot and vote.** However, election judges should document names of voters refusing to cover up or remove the material on the precinct incident log to be referred later to the appropriate authorities.

Attached is a sample letter which we strongly recommend you provide to your municipal clerks to be provided to the election judges.

Gary

Gary Poser
Director of Elections
Office of the Minnesota Secretary of State
180 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul MN 55155
Phone 651-556-0612
Fax 651-296-9073
Email Gary.Poser@state.mn.us

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Minnesota Majority, Minnesota Voters Alliance, Minnesota North Star Tea Party Patriots, Election Integrity Watch, Susan Jeffers, individually and as an election judge, Dorothy Fleming, Jeff Davis, Dan McGrath, and Andy Cilek Plaintiffs, vs. Joe Mansky in his individual and official capacity as the Elections Manager for Ramsey County, Rachel M. Smith in her individual and official capacity as the Elections Manager for Hennepin County, Mike Freeman in his individual and official capacity as Hennepin County Attorney, Susan Gaertner in her individual and official capacity as Ramsey County Attorney, and Mark Richie in his individual and official capacity as Secretary of State, Defendants.	Court File No. 10-CV-04401 (JNE/MJX) **DECLARATION OF RACHEL M. SMITH** FILED 12/18/14

I, Rachel M. Smith, declare as follows:

1. I am the Elections Manager for the County of Hennepin and a Defendant in the above-captioned case.

2. Attached hereto as Exhibit 1 is a true and correct copy of a November 1, 2010 memorandum that I sent by email to all Hennepin County Election Officials regarding displaying political or campaign materials in the polling place. Hennepin County election officials are generally city clerks or city managers.

3. Attached hereto as Exhibit 2 is a true and correct copy of a November 1, 2010 e-mail that I sent to all Hennepin County Elections Officials, which attached the November 1, 2010 memorandum.

4. Attached hereto as Exhibit 3 is a true and correct copy of page 26 of 257 of the Election Roster from the November 2, 2010 State General Election for Eden Prairie Precinct 11. The dates of birth for individuals have been redacted from this page. This page show that Andrew Eugene Cilek voted in the 2010 General Election.

5. Attached hereto as Exhibit 4 is a true and correct copy of the two-page Election Day incident log from Eden Prairie Precinct 11. The log states the following from 2:45 p.m. entry:

> Tea Party and Button - Would not take shirt or Button off. The Rep.-> from same party - challenger told him that he had to also but he refused. She [the Republican Challenger] said it was against their training. I called the Head Judge. She [Head Judge] told him he [voter] had to

> remove it in order to vote. I showed her [Head Judge] the last minute Elect. Day notes that said that even if he refuses, he can vote. She and he went out of voting area to talk. He did not give his name for me to see if he was eligible to vote. Challenger in hallway told him that court had ruled that he could not wear button/shirt in polling place. **I read instructions from Henn. Cty + told him he could vote if he was eligible. He left + did not return until press/news media arrived.**

(Emphasis added). At 3:30 p.m., there is an entry that says: "T Party man came back to get Challenger name and address."

I declare under penalty of perjury that the foregoing is true and correct.

January 6, 2011

s/ Rachel M. Smith
Rachel M. Smith

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Minnesota Majority, Minnesota Voters Alliance, Minnesota North Star Tea Party Patriots, Election Integrity Watch, Susan Jeffers, individually and as an election judge, Dorothy Fleming, Jeff Davis, Dan McGrath, and Andy Cilek, Plaintiffs, vs. Joe Mansky in his individual and official capacity as the Elections Manager for Ramsey County, Ginny Gelms in her individual and official capacity as the Elections Manager for Hennepin County, Mike Freeman in his individual and official capacity as Hennepin County Attorney, Susan Gaertner in her individual and official capacity as Ramsey County Attorney, and Mark Ri[t]chie in his individual and official capacity as Secretary of State, Defendants.	File No. 10-CV-04401 (JNE/SER) **DECLARATION OF DANIEL P. ROGAN** FILED 12/18/14

I, Daniel P. Rogan, declare as follows:

1. I am a Senior Assistant Hennepin County Attorney and represent Ginny Gelms and Michael O. Freeman in this litigation.

2. Attached hereto as Exhibit 1 is a true and correct copy of a page from EIW's website: http://electionintegritywatch.com/about (last visited on Dec. 28, 2010).

3. Attached hereto as Exhibit 2 is a true and correct copy of a page from EIW's website: http://electionintegritywatch.com/ActionPlan (last visited on Dec. 28, 2010).

4. Attached hereto as Exhibit 3 is a true and correct copy of sections of the CNN/ORC International Poll, reporting on results from a telephone poll of adult Americans from November 21-23, 2014. The complete set of poll results can be found at http://i2.cdn.turner.com/cnn/2014/images/12/02/cnnorcpoll12022014.pdf (last visited on Dec. 17, 2014). According to the poll, 32% of respondents had a favorable view of the Tea Party; 50% had an unfavorable view; 5% had never heard of the Tea Party; and 13% had no opinion. Ex. 3 at 11. In addition, according to the poll, 15% of individuals who identified themselves as liberal had a favorable opinion of the Tea Party, while 75% had an unfavorable opinion. Ex. 3 at 28. In contrast, 55% of individuals who identified themselves as conservative had a favorable opinion of the Tea Party, while 29% had an unfavorable opinion. *Id.*

5. Attached hereto as Exhibit 4 is a true and correct copy of portions of a June 2014 Pew Research Center report, entitled *Beyond Red vs. Blue:*

the Political Typology. The report is based on a national survey of 10,013 adults in the United States, conducted from January 23 to March 16, 2014 by the Pew Research Center. The poll indicates that 18% of respondents agree with the Tea Party movement and 28% disagree. Ex. 4 at 172. However, 53% of individuals described as steadfast conservatives agree with the Tea Party movement and only 6% of steadfast conservatives disagree, while 78% of individuals described as solid liberals disagree with the Tea Party movement and only 2% of solid liberals agree. Ex. 4 at 23.

6. Attached hereto as Exhibit 5 is a true and correct copy of an article written by Kate Zernike, entitled *Tea Party Comes to Power on an Unclear Mandate*, from the N.Y. Times and dated Nov. 2, 2010.

7. Attached hereto as Exhibit 6 is a true and correct copy of an article written by Mark Leibovich and Ashley Parker, entitled *Tea Partiers and Republican Faithful Share Exuberant Celebrations*, from the N.Y. Times and dated Nov. 3, 2010.

8. Attached hereto as Exhibit 7 is a true and correct copy of an article written by Kevin Diaz, entitled *Bachmann blasts president in first Tea Party rebuttal*, from the Star Tribune and dated Jan. 26, 2011.

9. Attached hereto as Exhibit 8 is a true and correct copy of an article written by Mark Zdechlik, entitled *Some Business Groups Signaling They've Had Enough of Tea Party*, from Minnesota Public Radio and dated Oct. 28, 2013.

10. Attached hereto as Exhibit 9 is a true and correct copy of an article written by Cyndy Brucato, entitled *When is an endorsement not an 'endorsement'?*, from MinnPost and dated Sept. 10, 2014.

11. Attached hereto as Exhibit 10 is a true and correct copy of the website of U.S. House of Representatives, Committee on House Administration, identifying the Congressional Member Organizations from the 111th Congress. The website address is: http://cha.house.gov/member_orgs 111th.aspx (last visited on Dec. 28, 2010). The second page of Exhibit 4 identifies the House Tea Party Caucus, which was approved on July 19, 2010, with Representative Michele Bachmann as Chair.

12. Attached hereto as Exhibit 11 is a true and correct copy of a page from Rep. Michele Bachmann's Congressional website, listing 52 Republican members of the U.S. House of Representatives as members of the House Tea Party Caucus. This page can be found at http://bachmann.house.gov/News/DocumentSingle.aspx?DocumentID=199440 (last visited on Dec. 28, 2010).

I declare under penalty of perjury that the foregoing is true and correct.

Dated: December 18, 2014 s/Daniel P. Rogan
Daniel P. Rogan

Election Integrity Watch is a joint project of Minnesota Majority, Minnesota Voters Alliance, Freedom Council and the Northstar Tea Party Patriots. The project's objective it to improve the overall integrity of elections in Minnesota by training thousands of voters on how to spot voter fraud and what to do about it when they do.

Minnesota Majority has been conducting research into Minnesota election irregularities since 2008. The organization's findings have been featured by a number of major news organizations, including Fox News, The Washington Examiner, the Wall Street Journal, Pioneer Press, KSTP, KMSP and the Star Tribune.

Minnesota Voters Alliance citizens' group formed with the primary purpose of empowering the electorate. They are currently working to pass voter photo ID in both state and city government.

Northstar Tea Party Patriots is an alliance of tea party groups from across the state of Minnesota. Their goal is to attract, educate, organize, and mobilize citizens to secure public policy consistent with our three core values of Fiscal Responsibility, Constitutionally Limited Government and Free Markets.

Click here to print a one-page overview of the Election Integrity Watch program.

Contact Us

Use the form below to send us a message.

Your Name (required)

Your Email (required)

Subject

Your Message

Send

http://www.electionintegritywatch.com/about/

EXHIBIT 1

Follow our six-step action plan for becoming part of the Election Integrity Watch team:

1. **Get Your Button** - Order an Election Integrity Watch button and wear it when you go to the polls on November 2 as a visible message to others that you are watching for voter fraud.

2. **Know What to Watch For** - Review our Election Integrity Watch List so that you are educated on what to watch for at the polls.

3. **Register as a Volunteer** - Sign-up to volunteer in one or more capacities as part of our Election Integrity Watch team. Our goal is the have thousands of Minnesotans registered as volunteers by November 2.

4. **Show Your ID** - When you go to vote on November 2, wear your Election Integrity Watch button and show your photo ID when you sign-in to vote. While Minnesota does not require an individual to show an ID, let's act like it does. This simple act of showing an ID will likely result in a spontaneous

reaction from others in line behind you to show their ID as well. Any person in line thinking about committing voter impersonation will likely be dissuaded from doing so. (Although polls show that over 80% of Minnesotans support requiring a photo ID to vote, this measure has been repeatedly block by leaders in the Minnesota state legislature).

5. **Report Suspicious Activities** - If you spot suspicious activity on Election Day, call our hotline number at **877-602-WATCH** or log an incident on our website. Take notes about what you saw—what you saw, when it occurred, where it took place and who was involved (ask people for their names). Take a photograph of the license plate of any vehicles involved (note - you must be at least 100 feet away from the polling place). If the incident involves a van or bus carrying multiple people to a polling place, try to follow the vehicle to see if it goes to other polling places.

6. **Donate**: Help us create public awareness of the Election Integrity Watch program by making a contribution to support our radio advertisements.

Comments are closed.

Our Motto: "WATCH, RECORD and REPORT, don't CONFRONT"

Powered by WordPress. Mandigo theme by tom.
Entries (RSS) and Comments (RSS).

http://www.electionintegritywatch.com/action-plan/

EXHIBIT 2

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Minnesota Majority, Minnesota Voters Alliance, Minnesota Northstar Tea Party Patriots, Election Integrity Watch, Susan Jeffers, individually and as an election judge, Dorothy Fleming, Jeff Davis, Dan McGrath, Eugene F. Delaune II, and Randy Liebo, Plaintiffs, vs. Joe Mansky in his official capacity as the Elections Manager for Ramsey County, Rachel M. Smith in her official capacity as the Elections Manager for Hennepin County, Mike Freeman in his official capacity as Hennepin County Attorney, Susan Gaertner in her official capacity as Ramsey County Attorney, and Mark Richie in his official capacity as Secretary of State, Defendants.	Court File No. 10-CV-4401 JNE/SRN **DECLARATION OF DAN MCGRATH** Filed 01/14/15

DECLARATION

I, Dan McGrath, declare and make the following statements:

1. I am a plaintiff in the instant lawsuit. Therefore, I am familiar with the facts of the underlying complaint.

2. I am also familiar with organizations that endorse candidates as the former director of Minnesota Majority, a Minnesota 501(c)(4) nonprofit organization with members formed in the interest of transparency in government, protecting identified values as they interrelate with political issues, including oversight, investigation, and reform concerning election and voter or voter registration irregularities. Minnesota Majority did not endorse candidates seeking elected or appointed offices.

3. I am aware for instance, that the National Rifle Association as a national organization, endorses candidates and has done so in Minnesota. In 2010, the NRA endorsed six congressional incumbents for office, three from the GOP and three democrats. An article titled, "NRA sprays its Minnesota endorsements to six congressional incumbents - 3 from GOP and even 3 Democrat," a copy of which is attached as **Exhibit 1**, the article identified the candidates as U.S. Representatives Democrats Tim Walz, Collin Peterson, and Jim Oberstar. Incumbent Republicans who got NRA support including John Kline, Erik Paulsen, and Michele Bachmann.

4. The NRA does have clothing apparel or buttons which promote the NRA. The NRA has a significant presence in Minnesota politics. In an article from the Star Tribune, a copy of which is

attached as **Exhibit 2**, has the headline, "NRA faces major test of clout in Minnesota." The article goes on to state that

> "Between 2008 and 2012, the NRA spent just $5,240 on Minnesota legislative races. In 2012, the liberal group Alliance for a Better Minnesota spent $144,365 to defeat a single legislative candidate in Edina.
>
> Strength is membership.
>
> The NRA "'spends money where they have to spend money, and they obviously don't have to spend it in Minnesota,'" said Joe Olson, director of the Gun Owners Civil Rights Alliance in Minnesota and a former NRA national board member. "'The strength of the NRA . . . is their membership. Once they're provided with direction, they go and do it."
>
> A copy of the article from the web is attached as **Exhibit 2**.

5. In a similar vein, I found an article on the web concerning the Minnesota Gun Owners Political Action Committee that endorsed three State Representatives "that have proven themselves as leaders for gun rights in Minnesota . . . Tony Cornish . . . Republican Part of Minnesota; David Dill . . . Democratic-Farmer-Labor Party; Steve Drazkowski . . . Republican Party of Minnesota." A copy of that article is attached as **Exhibit 3**.

6. I have found no evidence that people who wore NRA apparel (or buttons) were targeted for

possible prosecution during the November 2010 election or any election since if worn in the polling place.

7. I also found that TakeAction MN is an organization in Minnesota endorses candidates. As its endorsement overview states, "TakeAction Minnesota endorses candidates to further our mission of social, racial, and economic justice. Through our screening process, we choose candidates who will champion progressive issues and can build a winning campaign. After endorsement, members volunteer through TakeAction to win elections and hold elected officials accountable." A copy of that endorsement overview is attached as **Exhibit 4**.

8. I was unable to locate on the web the actual names of candidates TakeAction Minnesota has recently endorsed.

9. TakcAction Minnesota has t-shirts, sweaters, and buttons available for people to wear.

10. I have found no evidence that people who wore Take Action apparel (or buttons) were targeted for possible prosecution during the November 2010 election or any election since if worn in the polling place.

11. I am also familiar with the events concerning people wearing t-shirts with "Don't tread on me" statements, Gadsden Flag emblems and the like and "Election Integrity Watch" buttons during the November 2010 election. I wore an "Election Integrity Watch" button.

12. I own and did wear a button that read "Election Integrity Watch" on election day, November 2, 2010, in my respective polling place when I cast my

vote in Hennepin County. I was hoping to wear this button in future elections.

13. The "Election Integrity Watch" button was a creation of Election Integrity Watch. It stated "PLEASE ID ME;" that provides a telephone number "877.602.WATCH;" that provides a website address "ELECTIONINTEGRITYWATCH.COM;" and has a back ground picture of a drawn human eye similar to that found on "neighborhood watch signs" that are posted in some neighborhoods to deter and report crimes.

14. I did not expect the government would prohibit the "Election Integrity Watch" button from the polling place as it intended to do in November 2010. When I did wear the button into the polling place, my name and address were taken for possible prosecution.

15. I believe the "Election Integrity Watch" button is an expression of my right to free speech or association with the Election Integrity Watch coalition and its member associations.

16. Because of past events and my name taken for possible prosecution, I have been advised not to wear the "Election Integrity Watch" button in my polling place for fear of either an election judge or another poll worker will prohibit my ability to vote, therefore depriving me of that protected right.

17. I believe there is nothing in the wearing of the "Election Integrity Watch" button that endorses (or proposes the defeat) a specific candidate or ballot question and I do not believe the button qualifies as prohibited campaign materials in the polling place as defined by state law.

18. In preparation for the 2010 election, Minnesota Majority, Minnesota Voters Alliance and the Minnesota Northstar Tea Party Patriots formed a coalition referred to as "Election Integrity Watch," a concerned grass roots effort to protect election integrity.

19. As then Executive Director of Minnesota Majority I am familiar with the two other organizations that comprise Election Integrity Watch. None of the organizations are political parties. None of the organizations endorsed candidates.

20. Minnesota Majority was not a political organization.

21. Minnesota Majority did not endorse candidates. Furthermore, it took no position to promote or to defeat any ballot question.

22. There was no ballot question for Minnesota voters to vote upon regarding voter identification or other voter identification issues.

23. There was no political campaign related to voter identification.

24. There was nothing on the button that indicates the support of or encourages the vote for a particular candidate for elected office.

25. At the advice of counsel, I still have not worn the button since the 2010 election and believe that it is an infringement of my right to free speech.

I declare that the statements made here are to the best of my knowledge and recollection and are truthful. I understand the penalties of the law for perjury under the laws of the United States.

Dated: January 14, 2015.

/s/ Dan McGrath
Dan McGrath

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Minnesota Majority, Minnesota Voters Alliance, Minnesota Northstar Tea Party Patriots, Election Integrity Watch, Susan Jeffers, individually and as an election judge, Dan McGrath, and Andy Cilek, Plaintiffs, vs. Joe Mansky in his individual and official capacity as the Elections Manager for Ramsey County, Ginny Gelms in her individual and official capacity as the Elections Manager for Hennepin County, Mike Freeman in his individual and official capacity as Hennepin County Attorney, Susan Gaertner in her individual and official capacity as Ramsey County Attorney, and Mark Ri[t]chie in his individual and official capacity as Secretary of State, Defendants.	Court File No. 10-CV-4401 (JNE/SER) **DECLARATION OF ANDY CILEK** FILED 01/14/15

I, Andy Cilek, declare and make the following statements:

1. I am an eligible and registered voter in Hennepin County, Minnesota.

2. I am a plaintiff in this lawsuit and am familiar with the facts as stated in my declaration.

3. I am a United States citizen. I vote for the candidates I believe will do the best job without labeling that person as right, left, moderate, or extreme. I am also a supporter of veterans, people currently serving our country in the armed services. I will admit I am not a fan of big government or high taxes, but understand taxes are necessary for the function of governing.

4. I voted in November 2010, but only after close to a five-hour delay. Prior to my casting of my ballot, I was stopped by election officials as I entered my polling place and refused to be given a ballot to vote or otherwise enter my name in the voting register log to obtain a ballot.

5. On that particular day, I wore a t-shirt with the huge printed statement "Don't tread on me." The t-shirt also had the statement "Tea Party Patriots" on it as well in small print.

6. I liked the apparel for the statement "Don't tread on me." I saw that statement as symbolic of whom I am as a person - independent as a thinker and doer - and that others should not take advantage of me or disrespect me. The Tea Party Patriots small logo was of little consequence to me as I wore that shirt for years after until it literally wore out.

7. I am not a member of the Minnesota Tea Parry Patriots. And as I recall, the Minnesota Tea

Party Patriots did not in 2010, or at the present time, endorse candidates.

8. I am however, a member of the Christian faith. Familiar with its doctrines, I do not necessarily agree with their pronouncements. For instance, on the issue of abortion I believe in the right of choice.

9. I also wore a button that said "Election Integrity Watch, "Please I.D. Me," on that November 2010 election day.

10. On that election day in November 2010, I was told by election officials that I could not vote unless I either covered my shirt and button or took the items off. I refused and left the polling place.

11. After waiting in the parking lot, I tried to enter the polling place but was refused entry and told not to try again. After retreating again to the parking lot I contacted my attorney, Erick Kaardal, who came to the parking lot. I wanted to vote. After several hours, news journalists arrived. With that arrival, a final attempt to vote was made. At that point I was able to vote. However, an election judge took my name and address down for possible prosecution by the Hennepin County Attorney's Office for wearing my t-shirt or my button or both.

12. I was aware of the election policy Hennepin County had implemented to stop people who wore t-shirts or other apparel with statements on them. As I understood the policy, the election officials were to take down names and addresses of those people for possible prosecution by the County Attorney's Office.

13. I couldn't believe the County would target me under its policy.

14. I did not expect the prohibition of these buttons from the polling place, and if not removed or covered would result in the deprivation of my right to vote for almost five hours and required the news media to get me into the polling place. It was not my intent to draw that attention.

15. Regardless, I believed then, as I do now, the items were expressions of free speech.

16. I believe the statement "Don't tread on me" does not and never did as my statement of self expression endorsed (or proposed the defeat of) a specific candidate or ballot question.

17. The "Election Integrity Watch" buttons did not endorse any candidate or question on November 2, 2010.

18. There is nothing about the "Election Integrity Watch" button that endorses, causes confusion, undue influence, or is in any other way related to a political campaign.

19. I knew the candidates on the ballot who I would vote for and those I would not. I agreed with some candidates regarding their position on certain issues, and I disagreed with others. But who I voted for was my business and the statement on my t-shirt that day did not give my support to any particular candidate on the ballot. In fact, my t-shirt did not name a candidate. And as I recall there was no ballot question on the ballot and therefore, the t-shirt neither supported nor sought the defeat of a ballot question.

20. Regardless, I did not enjoy the prospect of having my name and address taken for possible prosecution by the government.

21. I enjoy wearing t-shirts with slogans, or statements.

22. I also know that since 2010, there have been numerous controversies on the local, state, and national scenes. For instance, there were controversies over the new Vikings stadium and how to fund that almost $ 1 billion project. War and terrorism is not far from the headlines. Increased taxes, property taxes, the economy, business growth, school bond referendum, climate warming or other environmental issues to name a few continue to be in the news. Candidates in favor of or against any one of these issues have sought election or re-election. Referendum have reached the ballot as election questions. Local Minnesota corporations such as Target have donated tens of thousands of dollars to organizations that support republican and democratic candidates and to one organization called MN Forward that created ads for an antigay candidate. A copy of an article relating to that controversy is attached as **Exhibit 1**.

23. I have seen voters in polling places that have worn red Target shirts with a Target bulls-eye symbol on the apparel.

24. After my election experience in November 2010, I have become fearful of wearing any type of clothing in the polling place that may be interpreted as supporting some sort of philosophy or position of a candidate without

naming that candidate—including a ballot question.

25. My attorney warned me not to wear any such clothing since the County policy to prosecute people remained in place. Thus, by the advice of my attorney I have not wore any apparel that might have either a statement or label of the manufacturer showing for fear of prosecution. Whether I agree or disagree with a statement or label of a manufacturer or corporation is not indicative of my own personal political or philosophical beliefs. If it looks good on me I wear it.

26. I have voted in elections since November 2010. I have seen people wearing all red or all blue apparel. I have seen people wearing apparel with corporate logos. I have seen people wearing apparel of the organization that I know endorse candidates such as the Sierra Club. I also know that candidates on the ballot hold "republican views" also represented by "red" in the news media. I know of candidates on the ballot that hold "democratic views" represented by "blue" in the news media. I also know of candidates that represent "green" views or were for or against the Vikings new stadium, for or against gay marriage, new taxes, bond referendum, and candidates that support our troops but disagree on defense spending or are in favor of greater defense spending. When I was threatened with prosecution in November 2010, I did not see another person targeted for possible prosecution or told to cover their apparel or remove their apparel because they

held the same or similar belief of a candidate on the ballot regardless of what they wore.

27. I remain fearful of prosecution and of being targeted by County officials when I enter a polling place. I have not worn what I would like to wear because of that fear when I vote. I was and felt targeted then and would feel the same if I wore an all blue t-shirt, or an all red t-shirt or a Vikings shirt, or a green shirt or a red tie with elephants, a blue tie with donkeys, a tie with whales on it or trees as I enter a polling place. I wear clothing that I like regardless of what other people might think it means but cannot on election day.

I declare that the statements made here are to the best of my knowledge and recollection and are truthful. I understand the penalties of the law for perjury under the laws of the United States.

Dated: January 14, 2015.

/s/ Andy Cilek
Andy Cilek

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Minnesota Majority, Minnesota Voters Alliance, Minnesota Northstar Tea Party Patriots, Election Integrity Watch, Susan Jeffers, individually and as an election judge, Dorothy Fleming, Jeff Davis, Dan McGrath, Eugene F. Delaune II, and Randy Liebo, Plaintiffs, vs. Joe Mansky in his official capacity as the Elections Manager for Ramsey County, Rachel M. Smith in her official capacity as the Elections Manager for Hennepin County, Mike Freeman in his official capacity as Hennepin County Attorney, Susan Gaertner in her official capacity as Ramsey County Attorney, and Mark Richie in his official capacity as Secretary of State, Defendants.	Court File No. 10-CV-4401 JNE/SRN **DECLARATION OF THE MINNESOTA VOTERS ALLIANCE** FILED 01/14/15

DECLARATION

I, Andy Cilek, on behalf of the plaintiff Minnesota Voters Alliance declare and make the following statements:

1. I am the founder and Executive Director of Minnesota Voters Alliance. The MVA has been active on many issues involving voting such as instant runoff voting, nonpartisan elections, judicial elections, and photo identification at the polls. The MVA is also involved in school district issues namely, reporting of school district campaign finance activities.

2. The MVA is not a political party under Minn. Stat.§ 200.02 which states that a "political party" means an association of individuals under whose name a candidate files for partisan office.

3. In 2010, in a one-time relationship, the MVA joined Election Integrity Watch with Minnesota Majority and Minnesota Northstar Tea Party Patriots in which Election Integrity Watch created and distributed "Please I.D. Me" buttons.

4. The "Please I.D. Me" buttons did not endorse any candidate or ballot question that might have appeared on the ballot on November 2, 2010.

5. There was nothing about the "Please I.D. Me" button that endorsed, caused confusion, caused undue influence, or was in any other way related to a political campaign. Since November 2010, the MVA has not seen any evidence that the button endorsed, caused confusion, caused undue influence, or was in any other way related to a political campaign on that day.

6. The MVA was aware of the pronouncements of County attorneys, and in particular the Defendant Mike Freeman, Hennepin County Attorney not to allow "Please I.D. Me" buttons in polling places—viewing them as campaign buttons.

7. The MVA was aware of the pronouncements of Defendant Joe Mansky prohibiting "Election Integrity Watch" buttons from Ramsey County polling places.

8. The MVA was also aware that persons associated with the MVA could have been prosecuted under Minnesota Statute § 211B.11 as it related to any enforced prohibition of the "Election Integrity Watch" buttons in or around polling places. MVA members or those associated with the MVA could have had their respective names taken down with their addresses for possible prosecution.

9. Some MVA associates and members also wore t-shirts that had statements of expression such as "Don't tread on me" or "Liberty" or "Remember me in November" or wanted to. They were fearful of possible prosecution if worn. They have since been told not to do so and to the best of the MVA's knowledge, no member or associate has worn them since to a polling place on election day.

10. The t-shirts did not endorse a particular candidate or ballot question in November 2010.

11. The t-shirts were not thought of as endorsing a particular candidate or ballot question if a question was on the ballot

12. The t-shirts were thought of as an expression of free speech.

13. Regardless, MVA members are concerned about prosecution and will not wear them for fear of prosecution in the polling place. MVA counsel has also advised them not to do so.

14. The MVA is aware that the Sierra Club, its Minnesota North Star Chapter, does endorse candidates. It is a well-known advocate for protecting the environment. Attached as **Exhibit A** is the North Star Chapter's elections and endorsements for the 2014 general election. The MVA believes the North Star Chapter endorsed candidates in 2010. The MVA notes the 2014 endorsements included the U.S. House of Representatives, Secretary of State, and the State House of Representatives. Sierra Club apparel can be purchased and worn by individuals. **Exhibit A** is a copy of the North Star Chapter endorsement page from the web. The endorsement page also notes that "The Sierra Club is pleased to endorse the following Minnesota candidates for office in the 2014 general election, in recognition of their strong support for and commitment to environmental issues . . . ." **Exhibit A.**

15. The MVA has found no evidence that people who wore Sierra Club apparel (or buttons) were targeted for possible prosecution during the November 2010 election or any election since if worn in the polling place.

16. The Minnesota AFL-CIO makes political endorsements. In 2014, the Minnesota AFL-CIO made endorsements for United States Senate, Secretary of State, State Auditor, U.S. House of Representatives, and the Minnesota House of Representatives as found in **Exhibit B**. The MVA believes people wear apparel that signify that he or she belong to the Minnesota AFL-CIO. The endorsement page noted this quote

from the Minnesota AFL-CIO's President Shar Knutson: "The 2013 and 2014 legislative sessions were some of the most productive sessions for working people in a generation. Their focus on middle class values like investing in education and job creation is working as Minnesota's economy continues to strengthen." It went on to say that "[a]n endorsement from the Minnesota AFL-CIO means that the candidate has a strong commitment to supporting the values and priorities of working people." **Exhibit B**. **Exhibit B** is a copy of the Minnesota AFL-CIO endorsement page from the web.

17. The MVA has found no evidence that people who wore Minnesota AFL-CIO apparel (or buttons) were targeted for possible prosecution during the November 2010 election or any election since if worn in the polling place.

18. The MVA found that Minnesota Education, "the union of 70,000 educators" endorsed candidates in, for example, 2012. On the endorsement page, Education Minnesota announced the endorsement of 85 races for the Minnesota State legislature. It read, "[w]hile some of the endorsements were earned by the pro-education track record of incumbents, other candidates were endorsed after going through a screening process with local educators." The announcement went on to say that "[w]e're confident we can work with this bipartisan group to build the best system of public education in the nation." **Exhibit C** is a copy of the 85 endorsements of candidates. All of the candidates in this group of 85 are from the DFL party but for two GOP candidates. It is believed members of Minnesota

Education wear apparel or buttons from that organization.

19. The MVA has found no evidence that people who wore Minnesota Education apparel (or buttons) were targeted for possible prosecution during the November 2010 election or any election since if worn in the polling place.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: January 14, 2015.

/s/Andy Cilek
Minnesota Voters Alliance, through Andy Cilek, Director